

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE NO. 02-362

**A CODE ORDINANCE AMENDING CHAPTER 16, DEVELOPMENT CODE,
ARTICLE V, SECTIONS 16-68, 16-69, 16-70, 16-71, and 16-74(h)**

WHEREAS, the Incorporated County of Los Alamos, New Mexico ("County") is a home rule county possessing the full power of local self-government pursuant to Article X, Sections 5 and 6 of the New Mexico Constitution, NMSA 1978, Chapters 3, 4 and 5, and County's Home Rule Charter; and

WHEREAS, pursuant to the New Mexico Statutes Annotated 1978, Chapter 3, Articles 19, 21, and 26, *et seq.* the New Mexico Legislature has given municipalities and counties in the state the authority to regulate land use within their territorial limits; and

WHEREAS, on December 13, 2022, County Council adopted a complete substitution for the Development Code, or Chapter 16 of the Los Alamos County Code of Ordinances ("Code"), to refine the standards and procedures of the Chapter, including procedures for administration and enforcement, to better support implementation of the Comprehensive Plan; and

WHEREAS, Article V of the substitute Development Code adopted by Council establishes procedures for administration and enforcement, including separate descriptions of the individual authority and responsibilities of the review and decision-making bodies for the purposes of the Development Code: The Community Development Department, specifically, the director; the Planning and Zoning Commission; and County Council; and

WHEREAS, since the new Development Code became effective on January 23, 2023, Community Development Department staff have processed a number of applications for Minor Zone Map Amendments, which subject to Quasi-Judicial proceedings and decided by the Planning and Zoning Commission, pursuant to Section 16-71, Table 49: "Procedures Summary Table;" and

WHEREAS, the review and decision-making responsibilities for the Planning and Zoning Commission, listed in Section 16-69(b)(1) and (2), only assigns the Commission review and recommendation authority over "Zone Map Amendments," generally, despite the clear separation of Major Zone Map Amendments from Minor Zone Map Amendments, the former going to County Council for review and decision, and the latter going to the Planning and Zoning Commission; and

WHEREAS, this Amendment reconciles the discrepancy between Table 49 and Section 16-69(b) to assign review and decision-making for Minor Zone Map Amendment applications to the Planning and Zoning Commission, and clarifies the Code for interpretation, which in turn promotes Code compliance; and

WHEREAS, this Amendment corrects these typographical errors and omissions in an effort to improve the clarity, utility, and overall quality of the Development Code, and to better serve the purposes it is intended; and

WHEREAS, on September 25, 2024, County Staff presented the text amendment to the Planning and Zoning Commission for review and its recommendations to County Council for consideration and adoption; and

WHEREAS, the Planning and Zoning Commission followed a legislative process to recommend approval of the proposed text amendment utilizing the factors described in Section 16-75(d) of the Development Code; and

WHEREAS, Council has considered this text amendment and the planning and Zoning Commission's recommendation in a public hearing where members of the public had further opportunity to make public comment; and

WHEREAS, Council's approval of the text amendment is based on the review criteria contained in Section 16-75(d) of the Development Code.

BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS, the Los Alamos County Code of Ordinances is hereby amended as follows:

Section 1. Chapter 16, Article V, Section 16-68 of the Code of the Incorporated County of Los Alamos is hereby amended to read as follows:

Sec. 16-68. Community development department/community development director.

- (a) *Authority.* The planning division of the community development department is responsible for day-to-day administration of this Code, unless this Code ~~states that another individual, department, or body has a specific responsibility.~~ specifically states otherwise.

The community development director has overall responsibility to ~~make~~ oversee the administration of this Code, including but not limited to: directing day-to-day operations, making administrative decisions on matters related to development for the decisions on behalf of Planning Division staff; and may delegate authority as necessary to any staff member in furtherance of the purposes and objectives of this Code.

(b) *Responsibilities.*

- (1) The community development director, or ~~their~~ designee, shall have the review and final decision authority as shown for administrative decisions listed in Table 49: Procedures Summary Table, pursuant to the Decision Criteria for application-specific procedures outlined in Division 3, Specific Development of this Code, including the following development applications:

- a. Accessory structure permits.
- b. Administrative deviations/~~waivers.~~
- c. ~~Declaratory rulings.~~
- d. c. Encroachment permits.
- d. . Fence/wall permits.

- ~~f.~~ Landscape plans.
- e. Lighting plans.
- ~~h.f.~~ Minor development plan amendments.
- ~~h.g.~~ Minor site plan amendments.
- ~~h.h.~~ Sign permits.
- k.i. Special event permits.
- l.j. Summary plats.
- ~~m.k.~~ Temporary use permits.
- n.l. Administrative wireless telecommunications facilities permits.
- o.m. Small wireless facilities permit.
- p.n. Minor historic demolition permit.
- q.o. Minor historic property alteration certificate.

- (2) In performing the duties and activities stated in this section, if the community development director, or their designee, determines that an application otherwise subject to administrative decision involves unique conditions or circumstances that warrant review and decision making by the planning and zoning commission, the community development director, or designee, shall refer any the application or and decision-making authority granted by this chapter pursuant to 16-68(b)(1) to the planning and zoning commission. ~~when the community development director, or their designee, determines that there are unusual conditions or unique circumstances that warrant review and decision making by the planning and zoning commission.~~
- (3) The community development director, or their designee, shall maintain an office ~~to supply the public with information about, and interpretation of, for the public to provide information and assistance consistent with, and in furtherance of, by providing information~~ the text of this Code, the official zoning map and the comprehensive plan.
- (4) The community development director, or their designee, shall interpret the County of Los Alamos Development Code and may take any necessary or appropriate action based on such interpretation of the Code pursuant to the procedures below.
- (5) The community development director, or their designee, shall not be required to accept an application or take any other action that cannot, based on the community development director's interpretation of the County of Los Alamos Development Code, be approved or justified as a matter of law.
- (6) The community development director, or their designee, shall, upon request, provide the applicant or requestor a written explanation of the director's action.

- (7) The community development director, or ~~their~~ designee, shall make a reasonable interpretation of the Code that is not inconsistent with the policies of the county and guidance by the planning and zoning commission and county council.
- (8) The decisions and code interpretations of the community development director, or ~~their~~ designee, shall apply to all applications filed and actions taken on or before the time a different interpretation is determined and applied by the planning and zoning commission pursuant to section 16-69.
- (9) If a development application is subject to review and a final decision by the community development director, or ~~their~~ designee, the director, or ~~their~~ designee, shall make a decision based on the decision criteria applicable to the application type in Division 3, Specific Development. Final decision on development applications reviewed by the community development director, or ~~their~~ designee, shall be issued in writing and shall clearly state reasons for a denial or any applicable conditions of approval.
- (10) Any final decision of the community development director, or ~~their~~ designee, including code interpretations, may be appealed to the planning and zoning commission pursuant to section 16-72(g).

Section 2. Chapter 16, Article V, Section 16-69 of the Code of the Incorporated County of Los Alamos is hereby amended to read as follows:

Sec. 16-69. Planning and zoning commission.

- (a) *Authority.* The planning and zoning commission is a ~~9~~ nine-member board appointed by county council per the requirements of Chapter 8, Boards and Commissions. ~~Pursuant to NMSA 1978 § 3-19-1 the planning and zoning commission shall provide advisory recommendations to the county council regarding planning and zoning for the county and for promoting the general welfare of the citizens of the county. The planning and Zoning Commission only has the authority expressly granted by the Los Alamos County Code and state law.~~
- (b) *Responsibilities.*
 - (1) The planning and zoning commission shall have the review and recommendation authority as shown for discretionary decisions listed in *division 3, Specific Development Procedures*, pursuant to the application-specific procedures outlined in division 3, Specific Development Procedures this Code, for the following development applications:
 - a. Master plan adoption or amendments approvals.
 - b. ~~Development plan approvals, including any associated site plans or sketch plats.~~
 - b.-c. Comprehensive plan adoption or amendments.
 - c.-d. Major Zone map amendments.
 - d.-e. Text amendment.

- e. County landmark or historic district adoption or amendment.
- (2) The planning and zoning commission shall have the review and final decision authority as shown for discretionary decisions listed in Table 49: Procedures Summary Table, including the authority to approve, conditionally approve or deny the following development applications:
- ~~a. Code interpretations.~~
 - a. b. Subdivision Sketch plats.
 - b. c. Subdivision Preliminary plats.
 - c. d. Subdivision Final plats.
 - d. e. Conditional use permits.
 - e. f. Site plan adoption or major amendment.
 - f. g. Development plan
 - ~~h. Major site plan amendments.~~
 - ~~i. Major development plan amendments.~~
 - g. j. Variances.
 - h. k. Discretionary wireless telecommunication facilities permit.
 - i. Minor Zone Map Amendment
 - j. Historic economic hardship waivers
 - k. Major historic demolition permit
 - l. Major historic property alteration certificate
- (3) Any application or decision-making authority referred to it by the community development director, or ~~their~~ designee, pursuant to section 16-68.
- (4) The planning and zoning commission shall have ~~appeal~~ appellate authority ~~for to review~~ any ~~all~~-administrative decisions acted on by the community development director, or ~~their~~ designee, as listed in Table 49: Procedures Summary Table and for all decisions or determinations of the county engineer or county utilities manager to require or not require any or all impact reports. The planning and zoning commission shall affirm, overturn, or modify the decision of the community development director, or ~~their~~ designee, the county engineer, or the county utilities manager.
- (5) If the application is subject to a recommendation to the county council, the commission shall make a decision based on the decision criteria applicable to the application type in division 3, Specific Development Procedures. The planning and zoning commission shall take any one (1) of the following actions:
- a. Recommendation of approval of the development application as presented;
 - b. Recommendation of approval of the development application with conditions. In recommending conditional approval, the planning and zoning commission may only recommend such conditions as are reasonably necessary to meet the approval criteria of specific procedures outlined division 3, Specific Development Procedures, including the granting of variances more restrictive than those originally requested by the applicant;

- c. Recommendation of denial of the application; or
 - d. If the planning and zoning commission is unable to arrive at a recommendation, the proposed development application shall be forwarded without recommendation to the county council for consideration.
- (6) If an application is subject to review and a final decision by the planning and zoning commission, the commission shall make a decision based on the decision criteria applicable to the application type in division 3, Specific Development Procedures. The planning and zoning commission shall take any one of the following actions:
- a. Approve the development application as presented;
 - b. Approve the development application with conditions. In granting conditional approval, the planning and zoning commission may only impose such conditions as are reasonably necessary to meet the approval criteria of specific procedures outlined in Table 26: Permitted Use Table, including the granting of variances more restrictive than those originally requested by the applicant;
 - c. Denial of the application; or
 - d. Defer the matter to a date no more than 60 calendar days following its first appearance on the agenda, unless a longer deferral is accepted by the applicant.
- (7) ~~A majority of planning and zoning commissioners in office shall constitute a quorum for the transaction of business. Five members shall be a quorum for the conduct of business of the planning and zoning commission.~~ No final action on any substantive matter, other than recommendations to the county council, shall be taken except on the affirmative vote of a majority of the commission members present, but in no event less than four affirmative votes. ~~Whenever a quorum is not present to commence, no action shall be taken except to adjourn the meeting to the next scheduled public hearing. No business shall be conducted by the planning and zoning commission in the absence of a quorum. The only actions that may undertake in the absence of a quorum are to set the time and date of the next meeting, attempt to achieve a quorum by contacting absent members, and to adjourn.~~
- (8) Final decision on development applications reviewed by the planning and zoning commission shall be issued in writing and shall clearly state reasons for an approval, denial, or any applicable conditions of approval. ~~within 15 days of the public hearing.~~
- (9) Planning and zoning commissioners shall attend planning and zoning commission training conducted by the community development director, or ~~their~~ designee, or other county staff.

Section 3. Chapter 16, Article V, Section 16-70 of the Code of the Incorporated County of Los Alamos is hereby amended to read as follows:

Sec. 16-70. - County council.

- (a) Authority. The county council ~~is the zoning authority for Los Alamos County and~~ has authority to make decisions on those types of applications as shown as county council responsibilities in Table 49: Procedures Summary Table.

The county council has delegated some of its broad planning and zoning authority to the planning and zoning commission authorized by law, and the effect of those delegations is shown in this Code.

(b) Responsibilities.

- (1) The county council shall have the review and final decision authority as shown for policy decisions listed in Table 49: Procedures Summary Table, pursuant to the application-specific procedures outlined in division 3, Specific Development Procedures of this Code, for the following development applications:
 - a. Master plan approvals.
 - ~~b. Development plan approvals, including any associated site plans or sketch plats.~~
 - ~~b.e.~~ Comprehensive plan adoption or amendments.
 - ~~c.d.~~ Major Zone map amendments.
 - ~~d.e.~~ Text amendments.
 - e. County landmark or historic district adoption or amendment.
- (2) The county council shall have appeal authority for all discretionary decisions acted on by the planning and zoning commission as listed in Table 49: Procedures Summary Table, for the following development applications:
 - a. Subdivision Sketch plats.
 - b. Subdivision Preliminary plats.
 - c. Subdivision Final plats.
 - d. Conditional use permits.
 - e. Site plan adoption or major amendment
 - f. Development plan adoption or major amendment
 - ~~g. Major site plan amendments.~~
 - ~~h. Major development plan amendments.~~
 - ~~g.i.~~ Variances.
 - h. Discretionary wireless telecommunication facilities permit
 - i. Minor zone map amendments
 - j. Historic economic hardship waivers
 - k. Major historic demolition permit
 - l. Major historic property alteration certificate
- (3) ~~A majority of county council members in office shall constitute a quorum for the transaction of business. Whenever a quorum is not present to commence, no action shall be taken except to adjourn the meeting to the next scheduled public hearing. Four members shall~~

be a quorum. No action of the Council shall be valid unless adopted by the affirmative vote of at least four members.

- (4) If an application is subject to review and a final decision by the county council, the council shall make a decision based on the decision criteria applicable to the application type in Division 3, Specific Development Procedures. The council shall take any one (1) of the following actions:
- a. Approve the development application as presented;
 - b. Approve the development application with conditions. In granting conditional approval, the council may only impose such conditions as are reasonably necessary to meet the approval criteria of specific procedures outlined Division 3, Specific Development Procedures, including the granting of variances more restrictive than those originally requested by the applicant;
 - c. Denial of the application; or,
 - d. ~~Defer the matter to a date no more than 60 calendar days following its first appearance on the agenda, unless a longer deferral is accepted by the applicant~~ Remand the application back to the recommending body for further proceedings in accordance with the instructions of the county council.
- (5) Final decision on development applications reviewed by the county council shall be issued in writing and shall clearly state reasons for an approval, denial, or any applicable conditions of approval. ~~within 15 days of the public hearing.~~

Section 4. Chapter 16, Article V, Section 16-71 of the Code of the Incorporated County of Los Alamos is hereby amended to read as follows:

DIVISION 2. - PROCEDURES

Sec. 16-71. - Procedures summary table.

Table 49: Procedures Summary Table lists the type of development applications authorized by this Code. For each type of application, the table indicates what type of notice is required, whether pre-application meetings with staff or neighbor meetings are required, which county bodies review and make a decision on the application, and in which cases a public meeting or hearing is required.

Table 49: PROCEDURES SUMMARY TABLE

APPLICATION TYPE	NOTICE			MEETINGS		REVIEW/APPROVING BODIES		SPECIFIC PROCEDURES	
	PUBLISHED NEWSPAPER AD	MAILED	POSTED NOTICE	PRE- APPLICATION MEETING	NEIGHBORHOOD MEETING	COMMUNITY DEVELOPMENT DIRECTOR/DESIGN EE	PLANNING AND ZONING COMMISSION	COUNTY COUNCIL	
Administrative Decisions									
Accessory Structure Permit						D	AD		section 16-73(c)
Administrative Deviation/Waiver						D	AD		section 16-72(f)
Administrative Wireless Telecommunications Facility						D	AD		section 16-73(b)
Encroachment Permit						D	AD		section 16-73(d)
Fence/Wall Permit						D	AD		section 16-73(e)
Lighting Plan						D	AD		section 16-73(f)
Minor Historic Demolition Permit						D	AD		section 16-73(g)
Minor Historic Property Alteration Certificate						D	AD		section 16-73(h)
Minor Development Plan Amendment						D	AD		section 16-73(i)
Minor Site Plan Amendment						D	AD		section 16-73(j)
Sign Permit						D	AD		section 16-73(k)

Table 49: PROCEDURES SUMMARY TABLE

APPLICATION TYPE	NOTICE			MEETINGS		REVIEW/APPROVING BODIES		SPECIFIC PROCEDURES	
	PUBLISHED NEWSPAPER AD	MAILED	POSTED NOTICE	PRE-APPLICATION MEETING	NEIGHBORHOOD MEETING	COMMUNITY DEVELOPMENT DIRECTOR/DESIGN EE	PLANNING AND ZONING COMMISSION	COUNTY COUNCIL	
Special Event Permit						D	AD		section 16-73(m)
Summary Plat						D	AD		section 16-73(n)
Temporary Use Permit						D	AD		section 16-73(o)
Small Wireless Facilities Permit						D	AD		section 16-73(l)
<u>Code Interpretations</u>						<u>D</u>	<u>AD</u>		Section 16-72(a)
<u>Declaratory Rulings</u>						<u>D</u>	<u>AD</u>		
Quasi-Judicial Decisions									
<u>Subdivision</u> Sketch Plat	X	X	X	X			D	AD	section 16-74(a)
<u>Subdivision</u> Preliminary Plat	X	X	X	X			D	AD	section 16-74(a)
<u>Subdivision</u> Final Plat	X	X	X	X			D	AD	section 16-74(a)
Conditional Use Permit	X	X	X	X			D	AD	section 16-74(b)
Discretionary Wireless Telecommunication Facility Permit	X	X	X	X			D	AD	section 16-74(c)
Historic Economic Hardship Wavier							D	AD	section 16-74(d)

Table 49: PROCEDURES SUMMARY TABLE

APPLICATION TYPE	NOTICE			MEETINGS		REVIEW/APPROVING BODIES		SPECIFIC PROCEDURES	
	PUBLISHED NEWSPAPER AD	MAILED	POSTED NOTICE	PRE-APPLICATION MEETING	NEIGHBORHOOD MEETING	COMMUNITY DEVELOPMENT DIRECTOR/DESIGN EE	PLANNING AND ZONING COMMISSION	COUNTY COUNCIL	
Major Historic Demolition Permit	X	X	X	X			D	AD	section 16-74(e)
Major Historic Property Alteration Certificate	X	X	X	X			D	AD	section 16-74(f)
Variances	X	X	X				D	AD	section 16-74(g)
Minor Zone Map Amendment	X	X	X	X	X		D	AD	section 16-74(h)
Site Plan Adoption/Major Amendment	X	X	X	X			D	AD	section 16-74(i)
Development Plan Adoption/Major Amendment	X	X	X	X	X		D	AD	section 16-74(j)
Legislative Decisions									
County Landmark or Historic District Adoption or Amendment	X	X	X	X	X		R	D	section 16-75(b)
Master Plan adoption or amendment	X			X			R	D	section 16-75(c)
Comprehensive Plan Adoption or Amendment	X			X			R	D	section 16-75(a)
Major Zone Map Amendment	X	X	X	X	X		R	D	section 16-75(e)

Table 49: PROCEDURES SUMMARY TABLE

X = Required R = Review and Recommend D = Review and Decide AD = Appeal Review and Decision	NOTICE			MEETINGS		REVIEW/APPROVING BODIES		SPECIFIC PROCEDURES	
	APPLICATION TYPE	PUBLISHED NEWSPAPER AD	MAILED	POSTED NOTICE	PRE-APPLICATION MEETING	NEIGHBORHOOD MEETING	COMMUNITY DEVELOPMENT DIRECTOR/DESIGN EE	PLANNING AND ZONING COMMISSION	COUNTY COUNCIL
	Text Amendment	X			X			R	D

section 16-75(d)

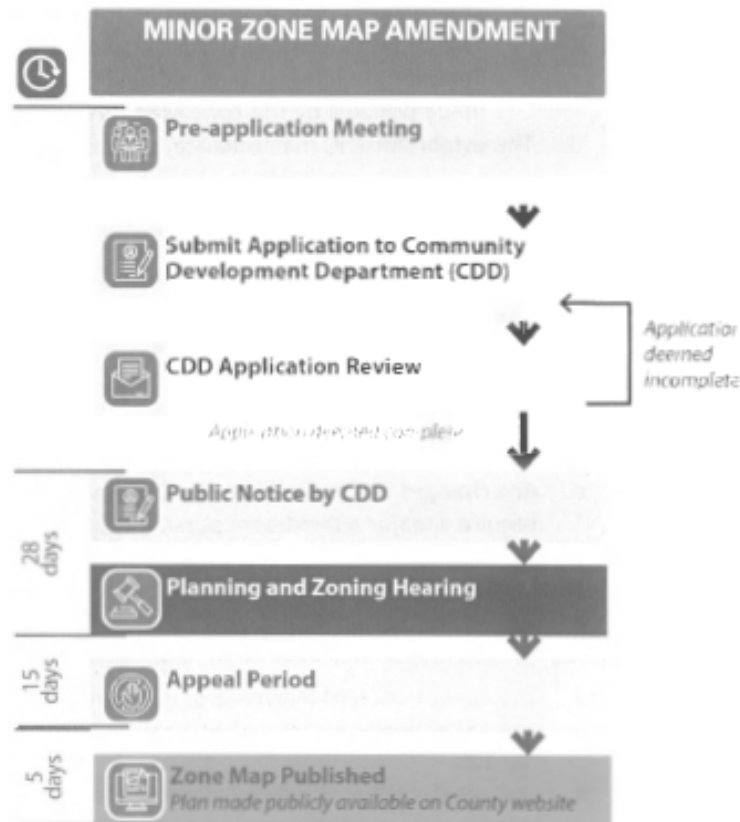
Section 5. Chapter 16, Article V, Section 16-74(h) of the Code of the Incorporated County of Los Alamos is hereby amended to read as follows:

(h) *Minor zone map amendment.*

(1) *Applicability.* This section applies to all applications for a zone map amendment to change a single tract, parcel or lot under common ownership; ~~or the land~~ or the land affected by the map amendment is predominantly owned by a single person or entity under common ownership.

(2) *Procedures.*

- a. Prior to the submission of a zone map amendment application, the applicant shall attend a pre-application meeting pursuant to section 16-72(b)(1) and conduct a neighborhood meeting pursuant to section 16-72(b)(2).
- b. Applications for an amendment to the official zoning map may be made by the county council, the planning and zoning commission, the county manager, the community development director, or ~~their~~ designee, or the owner or agent of any parcel of property to be affected.



- c. Zone map amendment applications shall be submitted to the community development department. The application shall explain how it conforms to the decision criteria in section 16-74(h)(3).
- d. A request for amendment to the comprehensive plan, if found necessary by the community development planning director, shall be submitted, processed, heard, and decided upon concurrently with the request for zone map amendment.
- e. The community development department shall intake the application pursuant to the requirements of section 16-72(d).
- f. The community development department shall provide public notice pursuant to the requirements of section 16-72(c)(2).
- g. The community development director, or their designee, shall set a date for public hearing before the planning and zoning commission on the zone map amendment request within 28 days of receipt of a complete application.
- h. The planning and zoning commission shall conduct a public hearing on the application pursuant to the requirements of section 16-72(f).
- i. The planning and zoning commission shall approve or deny the proposed zone map amendment pursuant to the decision criteria within section 16-74(h)(3).

- j. If the planning and zoning commission approves the zone map amendment, the official zoning map shall be amended to note the new zone district designation and posted on the county website.
- (3) *Decision criteria.* An application for a zone map amendment of the official zoning map shall be approved if it meets all of the following criteria:
- a. The proposed zone map amendment is consistent with the health, safety, and welfare of the county as shown by conformance with the goals and policies of the comprehensive plan and other adopted county plans or policies.
 - b. The existing zone district designation is shown to be inappropriate for one or more of the following reasons:
 - 1. It was established in error;
 - 2. Changed conditions warrant the rezoning; or
 - 3. A different zone is more advantageous to the community as articulated by conformance with each applicable goal and policy the comprehensive plan, including the future land use map.
 - c. The proposed zoning will not designate a zone district different from surrounding zone districts to one small area, i.e. create a spot zone, unless one or more of the following criteria are met:
 - 1. Granting such zoning accomplishes the goals and policies of the comprehensive plan;
 - 2. Unique characteristics specific to the site exist;
 - 3. The zoning serves as an appropriate transition between land uses of higher and lower intensity; or
 - 4. The county's existing and proposed infrastructure and public improvements including, but not limited to utilities, streets, sidewalks, or trails have adequate capacity to serve the development made possible by the zone map amendment.
 - d. The establishment, maintenance, or operation of uses made possible by the zone map amendment will not be detrimental to the health, safety, or welfare of persons residing or working adjacent to or within the proximity of the subject property.

Section 6. Severability. If any section, paragraph, clause or provision of this Code Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Code Ordinance.

Section 7. Effective Date. This Code Ordinance shall become effective thirty (30) days after publication of notice of its adoption.

Section 8. Repealer. All other ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

ADOPTED this 12th day of November 2024.

INCORPORATED COUNTY OF LOS ALAMOS

**Denise Derkacs,
Council Chair**

ATTEST:

**Naomi D. Maestas,
Los Alamos County Clerk**