



LOS ALAMOS

BCC Agenda - Final

Nuisance Code Implementation Review

*Phil Gursky, Chair; Kyle Wheeler, Vice-Chair; John Bloodwood;
Robert Day; and David Hanson, Members*

Friday, April 12, 2024

10:00 AM

1000 Central Ave.

*The meeting is held in person however, members of the public wishing to attend and /or provide public comment can do so in person or via Zoom. Please click the link below to join the webinar:
<https://us06web.zoom.us/j/81933673252>*

I. ADMINISTRATIVE ACTIONS

A. Call to Order - Roll Call

B. Approval of Today's Agenda

C. Review/Approval of Meeting Minutes

[18677-24](#)

Minutes from the Nuisance Code Implementation Review Task Force on March 08, 2024.

Attachments:

[Minutes_NCRITF_March082024](#)

D. Public Comment for Items Not on Agenda

II. PRESENTATIONS AND DISCUSSION ITEMS

A. Continued Discussion of Final Report

[18678-24](#)

Final Report for Presentation to Council on Findings of the Task Force, Discussion and Possible Action.

Presenters:

Philip Gursky

Attachments:

[NCITF Final Review Draft](#)

III. INFORMATIONAL ITEMS

IV. NEXT MEETING AND FUTURE AGENDA ITEMS

V. ADJOURN



County of Los Alamos

Staff Report

April 12, 2024

Los Alamos, NM 87544
www.losalamosnm.us

Agenda No.:

Index (Council Goals):

Presenters:

Legislative File: 18677-24

Title

Minutes from the Nuisance Code Implementation Review Task Force on March 08, 2024.

Recommended Action

I move that the Board approve the Minutes for March 08, 2024.

Attachments

A - Draft Minutes for March 08, 2024.



MI N U T E S

Nuisance Code Implementation Review Task Force

March 08, 2024, Room 110 10:00 a.m.

I. ADMINSTRATIVE ACTIONS

Members Present: Chair Gursky, Robert Day, Kyle Wheeler, John Bloodwood, David Hanson

Council Liaison Absent: Theresa Cull

Staff Present: Anita Barela, Administrative Support; Larissa Breen, Assistant County Attorney; Eric Abeyta, Code Compliance Officer; Antoinette Padilla, Code Compliance Officer; Andrea Salazar, Sr. Office Specialist

A. Call to Order

Chair Gursky called the meeting to order at 10:05 am and a quorum was present.

B. Approval of Agenda

Member Wheeler moved to remove subsection C. The request was accepted. Member Wheeler moved to approve the agenda as amended and Member Bloodwood seconded. Motion passed 5-0.

C. Review/Approval of Meeting Minutes – February 09, 2024

Member Wheeler moved to approve the minutes as amended and Member Day seconded. Motion passes 5-0.

D. Public Comment for Items Not on the Agenda

There was no public comment.

II. Presentations and Discussion (Action May be Taken on These Items)

A. Continued Discussion of Final Report

18503-24 Continued discussion of the content of the final NCITF Report to Los Alamos County Council.

Presenters: Philip Gursky
Chapter 18 Text

NCITF Final Report Preliminary Draft 02_01_24
Nuisance task force data analysis report
Input to History portion of final report of NCITF_RDay

Chair Gursky reminded the board of their mission to complete the final report to County Council. Member Bloodwood walked the committee through his analysis of the data from Community Development Code Compliance reports. Member Hansen suggested adding a date range to the data and Member Wheeler thought it might be clearer with two graphs with two date ranges. Member Bloodwood said he will work through the formats and send it to the board for their decision. Member Hanson asked if it could be shown how people respond to the letters they receive from the Code Compliance officials. Ms. Padilla, Code Compliance officer, said she usually hears directly from them by phone. Both Code Compliance officers said the response is usually that they have completed the requests and very few calls are received in general.

The sentence, “At the very least, we recommend slightly more specificity when tracking data – since nearly half of all cases fall under a single code section, it may be beneficial to parse out specific types of violations against this section to better understand the distribution of violations,” also be added to the *Recommendations Arising from Nuisance Case Review* as item B. The recommendation section of the report will include items from the data analysis report.

Patrol area data seems like both areas have similar coverage which makes the point the code compliance officers have been able to develop solutions with the homeowners. The board discussed how White Rock is patrolled and how there might be a disparity in the number of patrols in some of the zones. It was pointed out that some of the areas have more dwelling units than other parts of the community.

Member Wheeler asked if they would like to add to the report a discussion about how the penalties should be analyzed separately since that is not in the purview of the NCITF currently, but the board

would like to address the concern in the report. The board agreed that the penalty systems be reviewed and perhaps modified in the future.

The board discussed inoperable vehicles and their definition. One recommendation might be that the department continue to address multi department responsibilities of inoperable vehicles on an ongoing basis.

Chair Gursky said he will have the final version of the report in two weeks for them to review. The presentation will be on May 21st during Council's Work Session.

III. Informational Items

IV. Next Meeting (s) Future Agenda Items

The Council Presentation will be on May 21, 2024.

V. Public Comment

None

VI. Adjourn

The meeting was adjourned at 2:20 pm

Approved

Phil Gursky, Chair

Date



County of Los Alamos

Staff Report

April 12, 2024

Los Alamos, NM 87544
www.losalamosnm.us

Agenda No.:

Index (Council Goals):

Presenters: Philip Gursky, Chairman

Legislative File: 18678-24

Title

Final Report for Presentation to Council on Findings of the Task Force, Discussion and Possible Action.

Attachments

A - NCITF Final Review Draft

Nuisance Code Implementation Task Force Final Report

May 2, 2024

Introduction

This presentation is the report of the Nuisance Code Implementation Task Force (“Task Force”) to the Los Alamos County Council pursuant to the Task Force’s charge in its enabling legislation, County Council Resolution 19-23 (a copy of the “Enabling Resolution is attached as Appendix A). The Task Force was created in response to public and Council concerns about the adoption in December 2022 of the Nuisance Code (Chapter 18 of the Los Alamos County Municipal Code, attached as Appendix B).

This report discharges the responsibility of the Task Force to report back to the County Council with the results of its proceedings. Responsibility for implantation and enforcement of the Nuisance Code is assigned to the Planning Division of the Community Development Department (CDD), and the Task Force has had the complete cooperation and assistance from CDD and thanks them for their openness and assistance in helping the Task Force perform its duties.

The Task Force was enabled for a one-year term ending concluding on April 2, 2024, as extended by the Council on April9, 2024, and is composed of five citizen members, appointed by the County Council:

Philip Gursky

Kyle Wheeler

David Hanson

John Bloodworth

Robert Day

Philip Gursky was elected by the Task Force as Chair. County Council Vice Chair Teresa Hull is the liaison to the Task Force from the County Council. Senior Management Analyst Adrienne Lovato and Anita Barela have been the staff liaison and support for the Task Force.

History

The regulation of property owner’s responsibility for the condition and maintenance of citizen’s respective property was initially addressed in the Property Maintenance Code adopted as the prior Chapter 18 of the Municipal Code on January 7, 2014.

The Property Maintenance Code was the subject of significant community concern about both its provisions and enforcement. In response to those concerns, the Community

Development Advisory Board (CDAB) was created on May 15, 2018, to, among other responsibilities, review the code and recommend changes to the prior code.

As a result of the CDAB process, the County Council replaced the original Property Maintenance Code with the current Nuisance Code, which went into effect on January 7, 2023. At the time, and in response to continuing community concern, this Task Force was enabled by Resolution 19-23.

Responsibilities of Task Force

Pursuant to its charge, the Task Force performed the following scope of work:

1. Independently review the implementation and interpretation by staff of requirements in the new Code.
2. Review data and reports produced by the Community Development Department as part of its responsibility under the Nuisance Code (from January 7, 2023, to January 6, 2024), including monthly property maintenance code enforcement reports, courtesy letters, notices of violation, citations, and photographic evidence.
3. Engage County Staff and the affected community, as appropriate, to evaluate implementation of the Nuisance Code.
4. Review the communication of programs that support implementation of Code requirements, including assistance programs.
5. Prepare and present a report on any identified issues and associated recommendations to County Council for consideration of future action.

Task Force Process

To fulfill its responsibilities under the Enabling Resolution, the Task force adopted a series of actions and investigation. The purpose of the Task Force's actions was to arrive at a comprehensive knowledge of and effectiveness of Nuisance Code implementation and enforcement in its first year. The Task Force adopted and concluded the following:

1. Education and presentations by and from CDD Director and staff and the County Attorney's Office with help and assistance from County Planning Manager Sobia Sayeda, CDD Senior Management Analyst Adrienne Lovato, and Code Enforcement Officers Antoinette Padilla and Eric Abeyta.
2. Adoption of Task Force meeting schedules, operating procedures, and protocol for review of Nuisance Code complaints and case files.
3. Review by individual Task Force members of random selection of a total of 50% cases opened from January 7, 2023, through June 30, 2023, including discussion and highlights of initial reviews.

4. Review of CDD documentation and procedures used in case filings and proceedings.

Data Analysis

Process

Task Force responsibility number two is to review nuisance code data and reports produced by the Community Development Department. In order to do so, the Task Force appointed members Hanson and Bloodwood to develop a nuisance case review protocol during the May 5th, 2023, Task Force meeting. This protocol was discussed during subsequent Task Force meetings and was implemented in July. Each Task Force member received a representative sample of nuisance cases to-date (January – June for the first set) and reviewed the case including courtesy letter, photographic evidence, code section cited, and other relevant factors. After the first round, more nuisance cases were distributed to members for review on a monthly basis. The aim of the review was to uncover any potential areas of tension between the Code and how it was applied via enforcement.

Case Data

The case data under review ranges from January 2023 through December 2023, and represents a sum total of 533 cases that were issued a courtesy letter (~1.5 letters per day, on average). Of these 533 cases, 27 resulted in a Notice of Violation (5.1% of courtesy lettered cases). Note that no cases in 2023 resulted in a citation. Very few cases saw additional follow-up from citizens; in cases where follow-up occurred, it was usually over the phone with a compliance officer (therefore, precise statistics do not exist at this time.)

360 (67.5%) of cases were compliance officer initiated based on patrols or found enroute to a case follow-up. The remaining 173 cases were complaint initiated. (See Figure 1 below.)

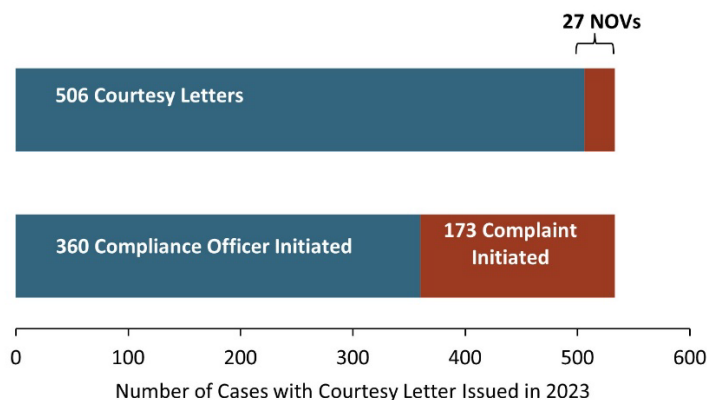


Figure 1. Breakdown of total cases and NOVs, and officer vs complaint driven. These data represent all cases that received at least a courtesy letter from January 2023 through December 2023.

Cases can also be categorized based on which code section is thought to be violated. Sec. 18-42, which describes the accumulation of litter, garbage, and refuse, is the primary code section that is violated. Obstructive vegetation is the second most common, with 145

violations. The remaining code violations occur infrequently, with some seeing minimal or no violations during 2023. Note that the dataset contains cases that have violated Sec. 16: compliance officers also monitor for Sec. 16 violations – these are reported along with nuisance cases.

Section 18

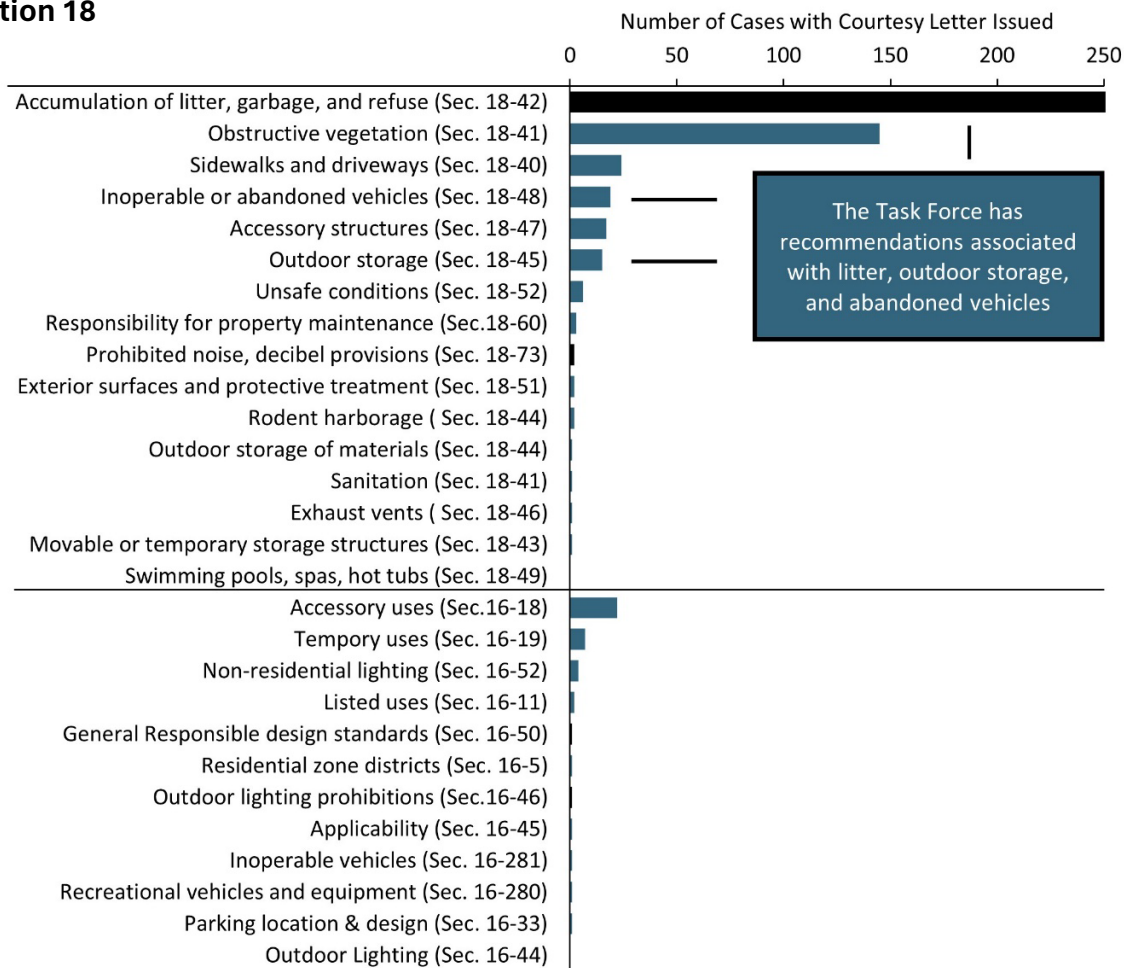


Figure 2. Cases from 2023 with courtesy letters sorted by highest occurring code section violation. Note that Sec. 18 and Sec. 16 are represented, as compliance officers also enforce Sec. 16; this section accounted for 42 of the 533 cases, or 7.9%.

When reviewing cases, some members of the Task Force found overlap or confusion (to the untrained eye) between when a situation called for a litter (Sec. 18-42) vs. an outdoor storage (Sec. 18-45) violation. It is possible that some litter cases overlap as an outdoor storage issue. At the very least, **we recommend slightly more specificity when tracking data** – since nearly half of all cases fall under a single code section, it may be beneficial to parse out specific types of violations against this section to better understand the distribution of violations.

Patrol Data

Starting in August 2023, the Task Force also began reviewing code enforcement officer patrol areas, in order to confirm that officers were equitably visiting all portions of the County. The data were recorded by CDD as a count of the number of visits to particular areas on a weekly basis. The areas of patrol are listed in Table 1 below:

Table 1. Patrol regions and areas as defined by CDD.

Region	Patrol Area
Northern Coverage	Barranca Mesa
	North Mesa
	Ponderosa / Upper North Community
	Quemazon / Lower North Community
	Western / Denver Steels
Southern Coverage / Los Alamos / White Rock	Orange Street / Royal Crest
	Townsite / Eastern
	White Rock / East
	White Rock / West / Town Center
	La Senda / Pajarito Acres

The data captured lists the number of visits to each patrol area and the number of nuisances found. Note, however, that code enforcement officers also catch nuisances on the way to follow-up on open cases, or to investigate complaints. As such, certain areas of the county may be visited more than these patrol data would otherwise suggest. Additionally, the Task Force assumes that nuisance violations are essentially randomly distributed. We will not report that any particular area may see more nuisances than others.

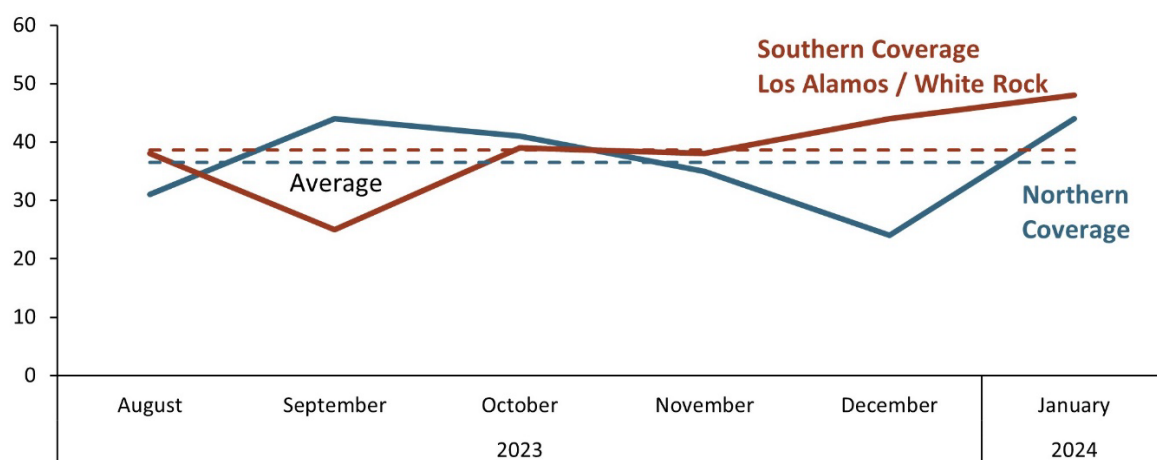


Figure 3. Number of nuisance patrols per month, per region. The dashed lines represent the average for each region across the time period. The average differs by ~2 patrols per month between regions, or 13 patrols over the time period – this represents a value of 2.8% of all patrols (a total of 451 patrols occurred).

Figure 3 demonstrates a relatively even distribution of patrols between regions over a six-month period. September saw significantly more patrols in the Northern region; however, December saw significantly fewer. The total number of patrols ranged from 68 (December) to 92 (January). A total of 451 patrols occurred over the time period of the dataset. **We recommend continued tracking of patrol data to continue to ensure equity across regions and patrol areas.**

Task Force Recommendations

The consensus of the Task Force is the implementation of the Nuisance Code has been relatively smooth and the new requirements and responsibilities of the Nuisance Code have alleviated a vast majority of issues plaguing the prior Code, that led to adoption of the new Nuisance Code.

Further, the citizen responsibilities and the CDD process of enforcement under the Nuisance Code has resulted in virtual elimination of citizen complaints about the Nuisance Code. With that said, the Task Force did find there were areas for improvement in the process, as well as provisions in the Nuisance Code where ambiguities and concerns still exist. Accordingly, the Task Force recommends the following actions or procedures to improve and clarify the enforcement of the Nuisance Code:

- A. A Courtesy Notice of Violation is sent to the address of a property owner when an Enforcement Officer notes a violation. The Task Force has evaluated the Courtesy Notice and recommended that the notice be revised to provide, in the notice, information on community resources available to the recipient to help with correcting a violation. This recommendation has already been implemented by the CDD.
- B. The Task Force has recommended the CDD provide, in addition to other reporting already in place, a monthly list of all cases closed in that month as well as generating, on a continuing basis, the total number of cases outstanding at any given time and their status. This will allow review and analysis of the duration, status, and aging of open cases at any given time. This recommendation has already been incorporated into CDD reports on the Nuisance Code.
- C. The Task Force recommended increased information in quarterly reporting to the Council. CDD has already incorporated a broader range of case information in the quarterly reports to the County Manager and County Council.
- D. The Task Force recommended creation of a closure letter to go to each citizen of a Courtesy Notice or Notice of Violation when the violation noted has been corrected. The purpose is to provide citizens with an official notice that their case has been

closed and nothing further is required. A draft letter suggested by the Task Force has been forwarded to CDD staff and will, upon final review, be implemented by CDD.

The Task Force, having reviewed, large amounts of case reports and code analysis has concluded the wording specific provisions of the Nuisance Code may be subject to ambiguity in its terms or application and suggests the following changes to the Nuisance Code:

- i. Define Litter. Section 18-42 lists four types of items that a property shall not accumulate – litter, garbage, refuse, and vegetative debris. Of these four types of items, only litter is undefined. These definitions are an incomplete set – garbage “tends to create a danger to public health”; refuse is organic or nonorganic solid waste; vegetative debris is dead and downed plant material. Many litter items may not fall into these categories – a stack of tires, a nearly-empty container of windshield wiper fluid, a messy pile of construction materials – are not immediately and necessarily waste (or a public health hazard).
- ii. It is the opinion of at least one Task Force member that many litter citations are not actually citing items that are “waste” – that is, the cited items are not intended to be thrown out or disposed of. As such, “litter” needs a definition that encompasses more than “an item intended for a landfill.” This flows into the next recommendation.
- iii. Consider working on Section 18-45, which governs outdoor storage. Because Section 18-42 seems to govern only “waste” as written, transfer “litter” and items not clearly intended for a landfill to be governed under Section 18-45. As part of this change, provide clear definitions and examples of what a violation might look like. Section 18-45 calls for “orderly” storage – what constitutes orderly? Additionally, the definition of *outdoor storage* requires 30 consecutive days of storage to prove that an item is abandoned. This timeline is difficult to prove, leading to the next recommendation.
- iv. Amend the definition of an inoperable vehicle. The definition calls for at least 3 of listed conditions existing for more than 30 consecutive days. However, none of the inoperable vehicle nuisance cases investigated by the Task Force had clear evidence of 30 consecutive days of inoperability. As such, there seems to be no standing to issue a notice of violation for this section of the code. It is unreasonable to assume code enforcement officers can check on an inoperable vehicle daily to build up a body of evidence to support 30 consecutive days.

The issue of consecutive days being unenforceable also occurs elsewhere in the code: the definition of *junk* requires 30 consecutive days; *Temporary*

Storage can only occur up to 60 consecutive days; and finally *outdoor storage* requires 30 consecutive days to be counted as an abandoned item. If it is impossible or impractical to prove this particular timeline, is it right for code enforcement officers to issue citations for these?

- v. As mentioned earlier, we recommend slightly more specificity when tracking data. 47% of all cases in 2022/2023 violated Sec. 18-42, the accumulation of litter, garbage, and refuse. Because this section had the highest number of cases, it may be beneficial to parse out specific types of violations when tracking data, to better understand trends and areas of concern.
- vi. As mentioned earlier, we recommend continued tracking of patrol data to continue to ensure equity across regions and patrol areas.

E. It was the consensus of the Task Force that review of the provisions regarding punishment with regard to (a) the severity of potential violation, without regard to the severity of the offense or (b) the imposition of multiple violations of the Code when imposing the most severe potential sentences requirement might warrant, upon a determination of the County Council, a comprehensive review by CDD and the County Attorney's Office of the violation and punishment structure of the Code aligning enforcement provisions with the severity of the charge in the first instance and, additionally, increasing penalties for repeat violations as a more effective deterrence to repeat violative behavior.

Findings of the NCITF

(To be inserted as part of April 12th Meeting)

Conclusion

The Task Force found in the process of its education in and review and analysis of the new Nuisance Code and its implementation by the CDD, that in large measure, the new Nuisance Code, and the process of enforcement employed by the CDD, have eliminated the concerns, opposition and problems characterized by the prior code and its enforcement during its existence from 2014 to 2022.

In addition to its submission to the County Council, the Task force has forwarded this report and its recommendations to the CDD staff and to the County Attorney's office, with the hope that process recommendations not yet adopted, or Code text change recommendations be implemented and approved by the Council and the appropriate County Department.

Acknowledgments

The Task Force is indebted to and thanks the County Staff and acknowledges the following individuals for their invaluable assistance and counsel in the Task Force's work:

Paul Andrus, Community Development Department Director

Sobia Sayeda, CDD Planning Division Manager

Adrienne Lovato, CDD Senior Management Analyst

Anita Barela, CDD Housing Specialist

Antoinette Padilla, CDD Code Compliance Officer

Eric Abeyta, CDD Code Compliance Office

Katie Thwaites Deputy County Attorney

Larissa Breen, Asst County Attorney

Appendices

- A. Charter for the Nuisance Code Implementation Review (NCIR) Task Force**
- B. Chapter 18 of the Municipal Code**
- C. Compilation of Case File Review Data Sheets**
- D. Raw Case Review Data Sheets of Task Force Members**
- E. Compilation of Data Analysis**
- F. Demonstration Illustrations Form Task Force Data**



LOS ALAMOS
where discoveries are made

Charter for the 2023 Nuisance Code Implementation Review (NCIR) Task Force

I. Purpose

The Nuisance Code Implementation Review Task Force (“Task Force”) was initiated through an action of the County Council on February 7, 2023. The Task Force will serve as an advisory body to the County Council for the purpose of reviewing the implementation and interpretation of the requirements of the new Chapter 18 Nuisance Code that went into effect on January 7, 2023. This will be a working committee; members will be responsible for collaborating with each other, the community, and County staff.

II. Scope of Work

The scope of work for this task force will include:

1. Independently reviewing the implementation and interpretation by staff of requirements in the new Code;
2. Reviewing one year of data and reports (from January 7, 2023, to January 6, 2024) including monthly property maintenance code enforcement reports, courtesy letters, notices of violation, citations, and photographic evidence;
3. Engaging with directly impacted members of the public as well as relevant Community Development Department (CDD) staff;
4. Reviewing the communication of programs that support implementation of Code requirements, including assistance programs;
5. Preparing and presenting a report on any identified issues and associated recommendations to County Council for consideration of future actions.

The Task Force will present to Council a mid-year status update for the first two quarters by September 1, 2023, with final recommendations, including public commentary and input, by March 31, 2024.

Note: This Task Force will not direct CDD staff nor have oversight of County staff. The scope does not include recommending changes to Chapter 18 except to address issues identified as part of the implementation review.

III. Task Force Representation

The Task Force will be composed of volunteers and will be open to all County residents. The ideal representation will include residents from a diversity of geographical areas. One member of the County Council and the CDD Director, or designee, will serve as liaisons to the Task Force. The total number of members will equal five (5) persons. Task Force members will be individually appointed by the County Council after having submitted letters of interest.

IV. Charter and Member Term

The term of this Charter will be from April 3, 2023 to April 2, 2024 and the term of each member will run until the term of the Charter expires. If during the term of the Charter a member resigns or is otherwise unable to serve, Council will appoint a new member to fill that member's remaining term.

V. Quorum

A quorum of the Task Force is defined as a simple majority of the appointed Task Force members. Task Force actions may be taken and considered valid only if a quorum has been established at the meeting.

VI. Resources

The County will provide staff responsible for coordinating the Task Force meeting logistics and other needs. Other County staff may be available based upon identified needs or specific topics of discussion.

VII. Meetings

This Task Force will meet at least quarterly. All meetings of the Task Force are subject to and will comply with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1 to 10-15-4, and will adhere to the requirements outlined in the County's Resolution adopted annually pursuant to Section 10-15-1(D) of the New Mexico Open Meetings Act.

This Task Force will utilize the County's Orientation Manual for the Members of Boards and Commissions as guidance for roles, responsibilities, and procedural rules.

Chapter 18 ENVIRONMENT¹

ARTICLE I. IN GENERAL

Secs. 18-1—18-30. Reserved.

ARTICLE II. NUISANCES²

DIVISION 1. PURPOSE AND SCOPE

Sec. 18-31. Purpose.

The purpose of this article is to promote the public's health, safety, and welfare by establishing minimum standards governing the conditions and maintenance of property and structures to prevent the creation and continuation of public nuisances, as defined by this article, and to provide a means for abatement, as authorized by state law.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-32. Scope.

The provisions of this article shall govern the responsibilities of a person for maintenance of all residential and nonresidential structures, premises, and property within the county. Property, structures, and premises shall be maintained in a clean, safe, and sanitary condition and shall not cause or create a health, safety, or welfare hazard.

(Ord. No. 02-334, § 2, 11-29-2022)

Secs. 18-33—18-39. Reserved.

¹Cross reference(s)—Transporting hazardous materials at airport, § 4-145; animals, ch. 6; vicious animal, § 6-15; buildings and building regulations, ch. 10; development code, ch. 16; solid waste management, ch. 32; streets, sidewalks and other public places, ch. 34; municipal environmental services gross receipts tax, § 36-111 et seq.; utilities, ch. 40.

State law reference(s)—Environmental Improvement Act, NMSA 1978, § 74-1-1 et seq.

²Editor's note(s)—Ord. No. 02-334, § 1, adopted Nov. 29, 2022, repealed the former Art. II, §§ 18-31—18-38, 18-41—18-66, and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. No. 02-238, § 2, adopted Jan. 7, 2014; Ord. No. 02-256, § 36, adopted July 7, 2015; Ord. No. 02-259, § 1, adopted Jan. 5, 2016; and Ord. No. 02-286, § 1, adopted May 1, 2018.

DIVISION 2. EXTERIOR PROPERTY AREAS

Sec. 18-40. Sidewalks and driveways.

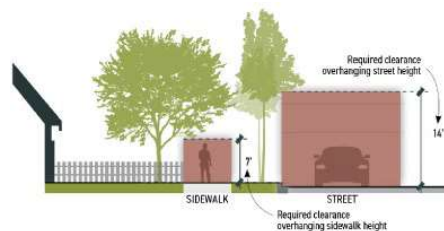
Sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be maintained in a safe and passable condition, free from obstructions and hazardous conditions. This includes any object that obstructs the free flow of pedestrian or vehicular traffic thereon and obstructions impairing the line of sight, particularly within required clear path or sight triangle per section 16-4-2(C)(IV) of the chapter 16, Development Code.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-41. Obstructive vegetation.

The owner or occupant of any property shall trim or remove all trees, plants, shrubs or vegetation, or any parts thereof, which overhang or extrude into any abutting sidewalk, public right-of-way, planting strip, and clear sight triangle per section 16-4-2(C)(IV) of the chapter 16, Development Code in such manner as to obstruct or impair the free and full use of the sidewalk or street, including the interruption or interference with the clear vision of pedestrians, bicyclists, or persons operating vehicles thereon, and including interference with traffic signs, poles, wires, pipes, fixtures, or any other part of any public utility situated in the street or public right-of-way. Vegetation shall be trimmed or removed to maintain a minimum clearance of seven feet overhanging sidewalk height and 14 feet overhanging street height.

(Ord. No. 02-334, § 2, 11-29-2022)



Sec. 18-42. Accumulation of litter, garbage, and refuse.

All exterior property and premises, whether improved or vacant, shall be free from any accumulation of litter, garbage, refuse, or vegetative debris which causes or creates a fire, health, safety, or welfare hazard or unsafe condition, except in approved receptacles for collection. Every property owner or occupant shall dispose of all litter, garbage, refuse, or vegetative debris in a clean and sanitary manner by placing such materials in approved receptacles for collection or by taking it to an approved disposal facility. Dumpsters and similar large receptacles shall be shielded from the public view per the requirements outlined in section 16-4-4(E)(III) of the chapter 16, Development Code. Compost piles shall be contained or covered to ensure contents are not windblown. All other such receptacles shall be kept in orderly manner and may only be moved to the curb no earlier than 5:00 p.m. the day prior to the day of collection, as determined by the collections schedule set forth by the county.

No person shall dump, deposit, place, or dispose of any trash, debris, junk, or other matter on public right-of-way, public property, or upon the property of another without permission from the property owner of record.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-43. Movable or temporary storage structures.

Tents or canopies used for storage or metal storage or moving containers shall not be permitted in areas visible from the public right-of-way unless specifically approved and permitted through a temporary use permit and in compliance with all temporary storage standards of the chapter 16, Development Code.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-44. Rodent harborage.

All buildings, structures, or lots shall be kept free from rodent harborage and infestation, as defined in this chapter. No person shall place, leave, dump, or permit to accumulate any water, garbage, rubbish, or trash in any structure or premises so that the same may afford food or harborage for rodents or pests. When any structure or premises is so infested or subject to infestation, the property owner or occupant shall be responsible for the prompt extermination by processes that will not be injurious to human health.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-45. Outdoor storage.

Outdoor storage or accumulation of items in residential zoning districts shall be stored and maintained in an orderly manner (e.g. stacked), shall not prevent emergency access to the primary structure, shall remain free of stagnant water, and shall be located outside the front setback area. Storage within carports is permitted, provided storage does not inhibit parking within the carport and storage complies with the provisions of this section. Items customarily associated with residential uses such as, but not limited to, hoses, lawn furniture, grills and outdoor cooking equipment, sport, game and leisure equipment, children's play equipment, firewood, etc. may be stored outside provided storage complies with the provisions of this section. This section shall not apply to the storage of such materials within a garage or other fully enclosed structure. Notwithstanding the foregoing, construction materials may be stored outdoors on residential premises for a period not to exceed nine months, or for such longer period of time as may have been approved by the community development director, if such materials are being used in the construction of a structure on the site and for which a building permit has been issued by the county.

Outdoor storage in non-residential zoning districts shall be screened from view in accordance with requirements of the chapter 16, Development Code, conditions of a conditional use permit or special use permit, or as otherwise required by law. All required screening shall be maintained in good repair.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-46. Exhaust vents.

Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, noxious odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-47. Accessory structures.

All accessory structures, including detached garages, fences, and walls, shall be maintained to be structurally sound and in good repair.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-48. Inoperable or abandoned vehicles.

Storage or encroachment of inoperable vehicles, as defined by this chapter, in the public right-of-way is prohibited. Storage of inoperable vehicles within a front yard is prohibited, except if the lot, because of topography, shape, or the location of the structures, cannot reasonably accommodate the location of inoperable vehicles in areas other than the front yard, and there is no safety hazard, then one inoperable vehicle may be stored in a front yard; provided that it is covered with an opaque cover designed to fit the motor vehicle. No more than three inoperable vehicles may be stored in a combination of the rear yard and side yard; provided that they are enclosed with a fence or wall or each is covered with an opaque cover designed to fit the vehicle such that the vehicle is not a safety hazard or visible from public view.

This section shall not apply to a vehicle stored in an enclosed structure; to vehicles on the premise of a business where an activity is within the contemplated purposes of a duly licensed business with the appropriate zoning or permitted as part of a conditional use or special use, provided it complies with all use requirements of the district and any conditions imposed by the approving bodies; or to a vehicle that is in compliance with NMSA 1978, sections 66-11-1 through 66-11-5, as may be amended, except that when stored in the front yard, such vehicles will be covered with an opaque cover designed to fit the vehicle.

Any dismantled or inoperative vehicles, or parts thereof, actively being restored, as defined by this chapter, are permitted to be stored on the property, provided the vehicle is registered in the resident's name, the dismantled parts are neatly stored out of public view when not actively being restored, and the vehicle is fully covered with an opaque cover designed to fit the motor vehicle if stored in a front yard when not actively being restored. This section does not apply to the routine or minor vehicle maintenance and repairs, such as oil changes, brake replacement, etc.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-49. Swimming pools, spas, hot tubs.

Swimming pools, spas, and hot tubs shall be maintained in a clean and sanitary condition, in good repair, and properly fenced and secured as required by Building Code or applicable law. No person shall allow any swimming pool or similar body of water to stagnate and become polluted or unsafe for its intended use. Spas or hot tubs with a hard safety cover in good repair that is latched or locked shall be exempt from the provisions of this section regarding fencing.

(Ord. No. 02-334, § 2, 11-29-2022)

DIVISION 3. REGULATION OF EXTERIOR STRUCTURE

Sec. 18-50. General.

The exterior of all structures shall be maintained in good repair and in a structurally sound, safe, and sanitary condition so as not to pose a threat to the public health, safety, or welfare.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-51. Exterior surfaces protective treatment.

Exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good repair. Exposed exterior surfaces shall be rated for exterior use to ensure that they retain their quality over time and shall be protected from the elements, rust, corrosion, and decay by painting or other weather-coating protective covering or treatment. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors, and skylights, shall be maintained weather resistant and watertight.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-52. Unsafe conditions.

The following conditions shall be determined unsafe and are prohibited:

- (a) The nominal strength of any structural member is exceeded by nominal loads, the load effects, or the required strength.
- (b) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects.
- (c) Structures or components thereof that have reached their limit state.
- (d) Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects.
- (e) Failure to maintain structures, buildings, or premises to the following standards:
 - (1) *Structural members.* Structural members shall be maintained free from deterioration and capable of safely supporting imposed dead and live loads.
 - (2) *Foundation walls.* Foundation walls shall be maintained plumb, free from open cracks and breaks, and rodent-proof.
 - (3) *Exterior walls.* Exterior walls shall be free from holes, breaks, and loose or rotting materials.
 - (4) *Roofs and drainage.* The roof and flashing shall be sound, tight, not have defects that admit rain or moisture, and drained to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that compromises the foundation, creates erosion, or creates a nuisance.
 - (5) *Decorative features.* Cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair, be properly anchored, and in a safe condition.
 - (6) *Overhang extensions.* Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts, shall be maintained in good repair, be properly anchored, and in a safe condition.
 - (7) *Stairways, decks, porches, and balconies.* Exterior stairways, decks, porches and balconies, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, and be properly anchored and capable of supporting the imposed loads.

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- (8) *Chimneys and towers.* Chimneys, cooling towers, smokestacks, and similar appurtenances shall be maintained structurally sound, in good repair, and in a safe condition.
 - (9) *Handrails and guards.* Handrails and guards shall be firmly fastened, capable of supporting normally imposed loads, and maintained in good repair.
 - (10) *Windows, skylights, doors, and door frames.* Windows, skylights, doors, and frames shall be maintained in sound condition, good repair, and weathertight. All glazing materials shall be maintained free from holes and not admit rain or moisture. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.
 - (11) *Doors.* Exterior doors, door assemblies, and hardware shall be maintained in good repair. Locks at all entrances to dwelling units shall tightly secure the door. Locks on means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge, or effort, except where the door hardware conforms to that permitted by the Building Code.

(Ord. No. 02-334, § 2, 11-29-2022)

Secs. 18-53—18-59. Reserved.

DIVISION 4. ADMINISTRATION AND ENFORCEMENT

Sec. 18-60. Responsibility for property maintenance.

Every owner of real property within the county is required to maintain the property in a manner that is in a clean, sanitary, safe, and structurally sound condition as not to violate the provisions of this article, and the owner shall be responsible for any violations.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-61. Violations.

- (a) Violations of this article shall be unlawful.
- (b) Violations may be enforced by issuing notices of violation and, if necessary, by filing a criminal complaint in municipal court.
- (c) Each calendar day of a violation shall constitute a separate offense.
- (d) Nothing in this article, however, shall in any way limit or prevent the county from taking any legal or equitable actions necessary to abate a public nuisance, taking immediate measures to prevent the imminent harm to or loss of life or property, or abating conditions that present an imminent danger to the health, safety, or welfare of the public.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-62. Responsibility of enforcement.

The county code compliance officer and code officials are authorized to enforce all provisions of this article. The responsibilities of the county code compliance officer and code officials shall include making decisions on conditions of abating violations of this article.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-63. Administration and enforcement procedures.

- (a) Any person may report a suspected violation of this article to the county community development department.
- (b) If the code compliance officer or code official determines that a violation of this article is occurring on a property, the code compliance officer or code official may issue a written courtesy letter pursuant to section 18-66(b) requesting the violation be voluntarily abated within 14 days of the receipt of the courtesy letter. The county may take action to abate a violation that presents imminent danger to the health, safety, or welfare of the public per section 18-71(g).
- (c) The code compliance officer or code official may re-inspect the subject property after the 14-day abatement period described in the courtesy letter to determine if the violation has been abated.
- (d) If upon re-inspection of the subject property, the code compliance officer or code official finds the violation has not been abated, a notice of violation may be issued pursuant to section 18-66(c).
- (e) If the required abatement will require a longer abatement period, the owner of record may submit a request for an abatement extension to the community development director or their designee. The request shall contain the property location, the violation, proposed abatement measures, and the proposed timeframe required to adequately abate the violation.
- (f) The code compliance officer or code official may re-inspect the subject property after the given abatement period to determine if the violation has been abated.
- (g) Upon the failure to abate a violation within the given abatement period, the county may file a complaint charging a violation(s) of this article with the municipal court.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-64. Authority to enter.

The code compliance officer or code official shall obtain a search warrant, or permission of the occupant thereof, or permission of the party responsible therefor in the event the premises are unoccupied, prior to entering the interiors of private parties, dwellings or living quarters, or the portions of commercial premises used as dwellings, or the non-public portions of commercial premises. Where it is necessary to make an inspection to enforce the provisions of this article, or whenever the code compliance officer or code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this article, the code compliance officer or code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code. The provisions of this section do not apply in the event of explosion, fire, or like emergency.

(Ord. No. 02-334, § 2, 11-29-2022)

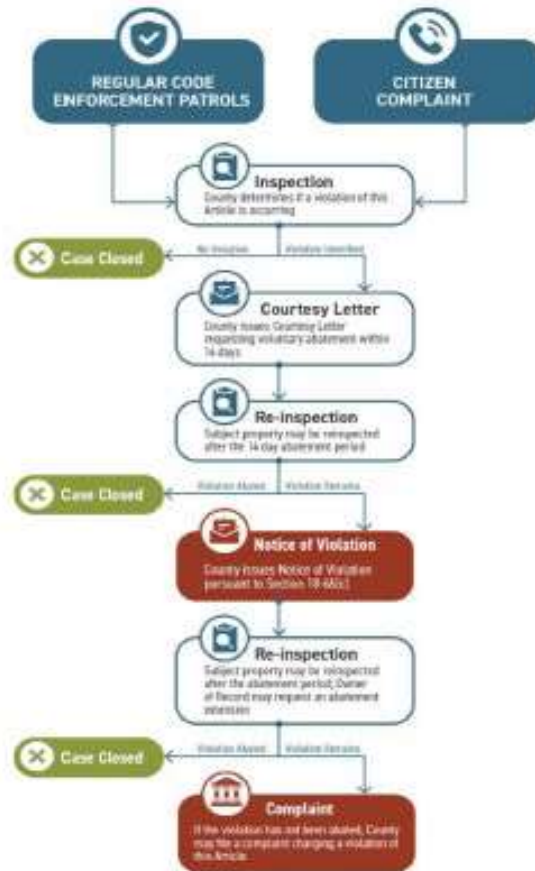
Sec. 18-65. Abatement and lien.

The county is authorized to take affirmative action in accordance with NMSA 1978, section 3-18-5, as may be amended, to abate a violation of this article, and may place a lien on the real property for the reasonable costs of abatement, and the lien shall bear interest at the rate of 12 percent per year from the date of filing the notice of the lien.

(Supp. No. 78)

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(Ord. No. 02-334, § 2, 11-29-2022)



Sec. 18-66. Notice.

- (a) The code compliance officer or code official shall issue all necessary notices or violation orders to ensure compliance with this article.
- (b) Whenever a violation is observed, the code compliance officer or code official may send a written courtesy letter directed to the owner of record of the property, as identified in the records of the county tax assessor, to make them aware of the violation and to request abatement of the violation. The courtesy letter shall also be sent to the property address where the violation exists, if the property address is different from the address for the owner of record. The content of the courtesy letter shall contain:
 - (1) A description of the violation, including the location of the violation in question;
 - (2) A description of corrective action to abate the violation;
 - (3) A request to complete all corrective action within 14 days after receipt of notification; and
 - (4) The contact information for the code compliance officer or code official. The courtesy letter may be served either personally or by certified mail.
- (c) In the event that re-inspection of the property after the 14-day period finds the violation was not abated and no abatement extension has been established per section 18-63(e), the code compliance officer or code official may send a notice of violation to the owner of record, as identified in the records of the county tax

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assessor, to abate the violation. The notice of violation shall also be sent to the property address where the violation exists, if the property address is different from the address for the owner of record. The content of the notice shall contain:

- (1) A description of the violation, including the location of the violation in question;
- (2) A description of all corrective action required to abate the violation;
- (3) A time period not less than 14 days or more than 30 days after service of the notice of violation, by which the owner must complete all corrective action; and
- (4) The contact information for the code compliance officer or code official.

A notice of violation shall be served on the owner personally or by certified mail. In the event the certified mail is returned undelivered, the owner of the property cannot be determined, or the owner does not respond to the notice of violation, such notice shall be served by affixing a copy of the notice of violation in a conspicuous location upon the premises.

- (d) Nothing in this section shall in any way limit or prevent the county from taking immediate measures to prevent the imminent harm to persons or property, or abating conditions under this or other chapters of the code which present an imminent danger to the health, safety, or welfare of the public.

(Ord. No. 02-334, § 2, 11-29-2022)

Sec. 18-67. Penalties for violation.

Any person who convicted of a violation of any provision of this chapter shall be sentenced in accordance with section 1-8 of the Los Alamos County Code.

(Ord. No. 02-334, § 2, 11-29-2022)

Secs. 18-68, 18-69. Reserved.

DIVISION 5. DEFINITIONS

Sec. 18-70. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Abate means to act to stop an activity and/or to repair, replace, remove, or otherwise remedy a condition, when such activity or condition constitutes a violation of this Code or other county regulation, by such means and in such a manner and to such an extent as the applicable department director, code compliance officer or code official, or other authorized official determines is necessary in the interest of the general health, safety, and welfare of the community. For the purposes of this chapter, the verbs "abate" and "correct" shall be interchangeable and have the same meaning.

Accessory structure means a structure detached from and located on the same lot as a primary building, clearly incidental and subordinate to the primary building or use. Accessory structures include but are not limited to shade structures such as covered patios, gazebos, pergolas, ramadas, or similar roofed structures. A structure attached by wall or roof to the main building is not an accessory structure but is a part of the main building.

Anchored means secured, attached, or fastened in place firmly so as to be capable of resisting natural or artificial loads.

Building means a structure which is permanently affixed to the land, having one or more floors and a roof, being bounded by either open spaces or lot lines and which is used as a shelter or enclosure for persons, animals or property. This term shall be used synonymously with "structure" unless otherwise noted and shall be construed as if followed by the words "part or parts thereof."

Clean means free from litter, garbage, refuse, rodent harborage, pests, and other conditions that present hazards to human health.

Code means any portion of the Los Alamos County Municipal Code.

Code official means the county official who is charged with the administration and enforcement of this Code, or any representative authorized by the county manager.

Deterioration means the process of weakening, disintegrating, corroding, rusting or decaying and losing effectiveness.

Dwelling unit means one or more rooms designed for or used as a residence by one family and constituting a separate and independent housekeeping unit, with a single kitchen; it does not mean quarters for transients in a club, hotel, or motel.

Exterior property means the open space on the premises and on adjoining property under the control of owners or operators of such premises.

Extermination means the control and elimination of insects or rodents by eliminating their harborage, by removing or by making inaccessible materials that may serve as their food, and by poisoning, spraying, fumigating, trapping, or by any other recognized and legal insect or rodent control method approved by the community development department that will not be injurious to human health.

Fire hazard means any physical item or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fire, or which may obstruct, delay, or hinder or may become the cause of an obstruction, a delay, or a hindrance to the prevention, suppression, or extinguishment of fire or any other fire hazard defined in the Uniform Fire Code.

Garbage means human-made or human-used waste which, if deposited within the county other than in a garbage receptacle, tends to create a danger to public health, safety, or welfare. Garbage may include any litter, trash, refuse, confetti, debris, rubbish, excrement, urine, or any noxious or offensive matter.

Imminent danger means a condition that could cause serious or life-threatening injury or death at any time.

In good repair means in a condition where the structure fulfills its intended use, is safe and functional, and meets all other code requirements.

Infestation means the presence, within or contiguous to, a structure or lot of insects, rodents, or other pests such kind or in such numbers as to create a potential health hazard or nuisance, as identified by rodent harborage and long-term habitation by or frequent presence of pests.

Inoperable vehicle means any vehicle, including a motorcycle, meeting at least three of the following conditions existing for more than 30 consecutive days: (1) does not have current New Mexico state registration; (2) is extensively damaged (such damage including but not limited to any of the following: shattered or missing windows or windshield or missing wheels, tires, motor, or transmission); (3) is not capable of travel under its own power in its existing mechanical condition; or (4) is on blocks or similar devices; or (5) is dismantled and not under active repair.

Junk means new, used, or secondhand materials of any kind which is not presently being used and that is demolished, discarded, dismantled, or in such a condition as to be generally unusable and/or inoperable in its existing state for more than 30 consecutive days including but not limited to: scrap metal and alloys, rags, cloth, clothing, paper, rubber pieces, rope, tinfoil, tires, bottles, tools, fixtures, utensils, lumber, boxes, crates, pipe or pipe fittings, furniture, refrigerators, freezers and all other appliances, machinery, used motor vehicles or the parts thereof or therefrom, any apparatuses or contrivances and parts thereof which are no longer in use, any used building material, boards or other lumber, cement blocks, bricks, or other secondhand building material.

Notice of violation means a written statement, issued by a code compliance officer or code official, which notifies a person that he or she is responsible for one or more violations of the Los Alamos County Municipal Code.

Noxious means physically harmful or injurious to human beings or domestic animals.

Obstructive vegetation means any trees, plants, shrubs or vegetation or parts thereof which overhang any sidewalk or street and which are situated on the property, in the planting strip, or on the portion of the public right-of-way abutting thereon, in such manner as to obstruct or impair the free and full use of the sidewalk or right-of-way, including the interruption or interference with the clear vision of pedestrians or persons operating vehicles thereon, and including interference with traffic signs, poles, wires, pipes, fixtures or any other part of any public utility situated in the street.

Occupant means any person living or sleeping in a building on the premise; or having possession of a space within a building.

Outdoor furniture means weather-resistant furniture that is designed and manufactured for outdoor use.

Outdoor storage means the keeping, storing, placing, or locating on exterior property on any premises for more than 30 consecutive days, of abandoned, discarded, nonfunction or inoperable household items, appliances, furnishings goods, products, or other similar items that are not allowed as a principal use or an accessory use of the premises or property under chapter 16, Development Code and that are not awaiting assembly into an active construction project. Items customarily associated with residential uses such as, but not limited to, hoses; lawn furniture; grills and outdoor cooking equipment; sport, game and leisure equipment; children's play equipment; firewood; etc. shall not be considered outdoor storage for the purposes of this chapter.

Owner means any person, group of persons, firm, corporation, public agency or any other legal entity having legal chapter or equitable interest to the property subject to this article.

Pest means any organism that spreads disease, causes destruction, or may otherwise create a potential health hazard.

Person means any natural person, corporation, partnership, sole proprietorship, joint stock company, joint venture, private legal entity, or any federal, state, or local political subdivision or entity thereof.

Planting strip means the area of the right-of-way between the constructed curb or edge of the right-of-way and the adjoining property line, exclusive of any improved sidewalk or any established pedestrian path.

Premises means any building, lot, plot or parcel of land, easement or public way, or land or portion of land whether improved or unimproved, including adjacent sidewalks and planting strips.

Public nuisance means a condition that is injurious to public health, safety, morals, or welfare or interferes with the exercise and enjoyment of public rights, including the right to use public property.

Public right-of-way or right-of-way means all real property owned or held by the county, or by way of easement, or dedicated to the public and located within the county, and used or intended for use as a street, alley, sidewalk, public way, or easement for public or private utilities, whether developed or undeveloped.

Publicly visible or public view means anything that can be seen by a person with normal vision from any sidewalk, or street.

Refuse means solid waste consisting of organic or nonorganic materials but shall not include human or animal body waste.

Rodent means a relatively small gnawing mammal that have in both jaws a single pair of incisors with a chisel-shaped edge.

Rodent harborage means any condition that provides shelter or protection for pests and rodents; thus, favoring their multiplication and continued existence leading to infestation in, under, or outside a structure or lot. Rodent harborage may be identified by one of more of the following signs: (1) the presence of live or dead rodents; (2) the presence of rodent nests made up of many kinds of materials, such as bits of paper, straw, rags, etc.; (3) rodent odor from rodent urine; (4) the presence of droppings; (5) evidence of gnawing; (6) rub marks or deposits of body oil and dirt from rodents found along frequently traveled routes as an indicator of habitual pathways; (7) the presence of runways or frequently traveled paths along floors, stairs, and shelves where droppings, rub marks, and stains from rodent urine are found; (8) the presence of burrows that consist of tunnels dug below ground and are used by rodents for nesting and as a path for travel.

Rodent proofing or rodent proof means permanent construction, alterations, repairs, devices, methods, or means to prevent the ingress of rodents into buildings or structures from the exterior or from one building to another. "Rodent proofing" shall consist essentially of the closing, with materials or equipment impervious to rodent gnawing, of all openings in the exterior walls, ground or first floors, basements, roofs, sewers, and foundations which may be reached by rodents from the ground by climbing or by burrowing. As applied to buildings or structures, "rodent proofing" shall be interpreted to mean a continuous masonry foundation of the size and depth required by the Uniform Building Code and other requirements for a building of the same occupancy for clearances beneath wood joists, wall coverings adjacent to the top foundation, and the protection of roof and foundation openings, and such other methods and means as will provide an equivalent effect and are approved by the building official.

Sanitary means hygienic and lacking any condition in which an accumulation of filth, trash, or waste is present in such a manner as constitutes a health hazard.

Structure means anything constructed or built which requires location on or in the ground or is attached to something having a location on or in the ground. Underground storage tanks, patio slabs, paved areas, walks, tennis courts and similar facilities, the tops of which are not more than 30 inches above ground, are not structures.

Structurally sound means substantially free from flaw, defect, decay or deterioration to the extent that the building or structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

Temporary storage means non-permanent, portable receptacle designed and used for the storage or shipment of household goods, wares, building material or merchandise, such as moving PODS or tents, or temporary storage activities that occur on a temporary basis for no more than 60 consecutive days at one time and is easy to remove.

Unsafe condition means a condition that includes, but is not be limited to, any premises or any portion thereof which, as the result of the accumulation or collection of litter, dilapidated structures, inoperable vehicles as defined herein or any other hazardous object or condition, that is or may be an attractive nuisance to children or a danger to the life, premises, occupants, or safety of the public and any unguarded well, cesspool, excavation pit or hole which by virtue of abandonment, dilapidation, or lack of maintenance is a hazard to the public.

Unsanitary condition means a condition that poses or may pose a threat, hazard, or nuisance to human health which may be evidenced by one or more of the following conditions: (1) fire or water damage; (2) infestation by rodents or other pests; (3) excessive amounts of litter or junk on the property; (4) abandoned pools or deposits of water that have been polluted; or (5) unclean animal enclosures.

Vegetative debris means dead and downed plant material, naturally expired or portions of a plant removed intentionally such as by trimming, resulting from trees, grasses, shrubs, and understory groundcover and not being used for mulch or sources of seeds for new growth.

Violation means an act or omission contrary to a regulation as defined in this Code. A violation continues to exist until abated to the satisfaction of the county, with each calendar day or portion thereof in which the violation continues constituting a separate violation.

(Ord. No. 02-334, § 2, 11-29-2022)

ARTICLE III. NOISE

Sec. 18-71. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acceptable sound level means the intensity of noise and shall be less than the levels described in this article.

dBA means the total sound level of all noise as measured with a sound level meter using the A weighting network.

Motor vehicle means any motor equipped device that may be used to transport a person from one point to another. This would include both licensable and unlicensable vehicles.

Property line means the boundary of a lot, parcel, tract or plot of land as shown by the land records of the county. Where appropriate, it is also either the boundary line of an area leased or rented when such an area is not shown on a separate plot, parcel, tract or plot of land on the county's land records, or the line demarking separate ownership in any condominiums.

Qualified person means an enforcement officer who has been trained in the use of sound level measuring equipment.

Sound level means the sound emanating from any source or combination of sources as measured with a sound level meter meeting or exceeding the specifications of the American National Standards Institute S 1.4 - 1971, for type II sound level meters.

(Ord. No. 74-78, § 10-1-14(A), 1983; Code 1985, § 8.28.010)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 18-72. Policy and purpose.

The making, creation or maintenance of such excessive, unnecessary, unnatural or unusually loud noises which are prolonged, unusual or unnatural in their time, place and use are a detriment to the public health, comfort, convenience, safety, welfare and property and may constitute a trespass upon the privacy of others; the necessity in the public interest for the provisions and prohibitions contained and enacted in this article, is declared as a matter of legislative determination and public policy. It is further declared that the provisions and prohibitions contained in this article and enacted are in the pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, property and preventing the trespass of excessive noise upon the peace and quiet of the county and its inhabitants.

(Ord. No. 74-78, § 10-1-14(B), 1983; Code 1985, § 8.28.020)

Sec. 18-73. Prohibited noise; decibel provisions.

- (a) Except in connection with the operation of motor vehicles on a public thoroughfare and otherwise as provided in subsection (c) of this section, it shall be a violation of this article for any person to cause or permit the production of sound in such a manner as to let escape more than 65 dBA across any residential property line, nor more than 53 dBA during the hours of 9:00 p.m. to 7:00 a.m.
- (b) Between the hours of 7:00 a.m. and 9:00 p.m., the noise levels permitted in subsection (a) of this section may be increased by ten dBA for a period not to exceed ten minutes in any one hour. Specifically excluded from this subsection are vehicles operated beyond the limits of a public right-of-way.
- (c) It shall be a violation of this article for any person to cause or permit the production of sound in such a manner as to let escape more than 55 dBA across, through or around any common wall separating or dividing multiple-dwelling units, nor more than 50 dBA during the hours of 9:00 p.m. to 7:00 a.m.
- (d) It will be a violation of this article to operate a motor vehicle of 10,000 pounds GVW or less or any combination of vehicles on a public thoroughfare within a residential area at any time or under any conditions of grade, load, acceleration or deceleration in such a manner as to exceed 80 dBA at a distance of 25 feet.
- (e) Vehicles in excess of 10,000 pounds GVW, operated on a public thoroughfare within a residential area between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, will be in violation of this article when operated under any conditions of grade, load, acceleration or deceleration or simultaneous use of accessory engines and equipment in such a manner as to exceed 88 dBA at a distance of 25 feet. At all other hours, such vehicles are subject to the regulations as stated in subsection (d) of this section.
- (f) For the purpose of determining and classifying any sound as unacceptable and therefore prohibited, the following measurements and requirements may be applied; however, it is not necessary that the test be implemented in order to cite a violation of this article:
 - (1) The sound shall be measured at the trespassed property line at the point resulting in the highest meter reading created by the offending noise; if the source is located on a public right-of-way, it shall be measured at a distance of 25 feet from the source.
 - (2) The noise shall be measured by a qualified person operating a sound level meter on the A weighting scale.

(Ord. No. 74-78, § 10-1-14(C), 1983; Code 1985, § 8.28.030)

Sec. 18-74. Enumeration of prohibited acts.

The following acts, among others that may be unmeasurable, are declared to be loud, disturbing and unnecessary noises in violation of this article, but this enumeration shall not be deemed to be exclusive, namely:

- (1) *Silencing devices.* The use of a product after the removal or rendering inoperative, other than for the purpose of repair, maintenance or replacement, of any device or element of design incorporated into any product for the purpose of silencing or quieting its sound level.
- (2) *Horns and signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or any other vehicle, except as a danger warning; the creation by means of any such signaling device of any unreasonable loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time.

-
- (3) *Yelling and shouting.* The act of yelling or shouting on the public streets between the hours of 9:00 p.m. and 7:00 a.m. so as to unreasonably annoy or disturb the quiet, comfort or repose of any persons in any dwelling or other type of residence.
 - (4) *Animals.* Permitting any animal to cause frequent or long continued noise as to unreasonably disturb the comfort or repose of any person in the vicinity.

(Ord. No. 74-78, § 10-1-14(D), 1983; Code 1985, § 8.28.040)

Sec. 18-75. Application for special permit.

- (a) Application for a permit for relief from the noise level designated in this article on the basis of undue hardship may be made to the manager. Any permit granted by the manager under this article shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. The manager may grant the relief as applied for if he finds:
 - (1) That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this article; or
 - (2) The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with other sections of this article; and
 - (3) That no other reasonable alternative is available to the applicant.
- (b) The manager may prescribe any conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

(Ord. No. 74-78, § 10-1-14(E), 1983; Code 1985, § 8.28.050; Ord. No. 02-256, § 37, 7-7-2015)

Sec. 18-76. Exemptions.

The following uses and activities shall be exempt from noise level regulations:

- (1) Noises of safety signals, warning devices and emergency pressure relief valves;
- (2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency;
- (3) Noise resulting from any emergency work, required for public health and safety;
- (4) Any other noise resulting from activities of a temporary duration permitted by law for which a written license or written permit has been granted by the county.

(Ord. No. 74-78, § 10-1-14(F), 1983; Code 1985, § 8.28.060)

Sec. 18-77. Manner of enforcement.

Violations of this article shall be prosecuted in the same manner as other violations of this Code; provided, however, that in the event of violation of section 18-73(d) or (e) pertaining to motor vehicles, a written notice of intention to prosecute will be given the alleged violator not less than five calendar days prior to the filing of a complaint. No complaint shall be issued if the cause of the violation is removed, the condition abated or fully corrected within such five-day period. If the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required in this section shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address, in which event the five-day period shall commence at the date of the day following the mailing of such notice.

(Ord. No. 74-78, § 10-1-14(H), 1983; Code 1985, § 8.28.070)

Sec. 18-78. Penalty for violation of article.

- (a) Any person violating any of the provisions of this article shall, upon conviction, be fined not more than \$10.00. Any person violating any of the provisions of this article who has, within one year previous to the date of such alleged violation, been found guilty of a violation of the same section of this article shall be punishable for each such offense, upon conviction, by a fine of not more than \$50.00.
- (b) In a prosecution for a violation of this article, the establishment by the defendant that the noise complained of did not exceed the standards contained in section 18-73 shall be a complete defense. The defendant shall be entitled to obtain an order directing the county's employees to use county equipment to make the required measurements.

(Ord. No. 74-78, § 10-1-14(G), 1983; Code 1985, § 8.28.080)

Sec. 18-79. Additional remedy; injunction.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle, machinery or other source of noise production in violation of any of the provisions of this article or which trespasses the property line of a resident so as to endanger the comfort, repose, health or peace of that resident shall be deemed a public nuisance.

(Ord. No. 74-78, § 10-1-14(I), 1983; Code 1985, § 8.28.090)

Secs. 18-80—18-110. Reserved.

ARTICLE IV. SMOKING³

DIVISION 1. GENERALLY

Secs. 18-111—18-130. Reserved.

DIVISION 2. IN ENCLOSED PUBLIC PLACES⁴

³State law reference(s)—Tobacco Products Act, NMSA 1978, § 30-49-1 et seq.; tobacco products tax, NMSA 1978, § 7-12A-1 et seq.

⁴Editor's note(s)—Ord. No. 02-254, § 1, adopted March 3, 2015, amended division 2 in its entirety to read as herein set out. Former division 2, §§ 18-131—18-140, pertained to similar subject matter. See Code Comparative Table for complete derivation.

Cross reference(s)—Streets, sidewalks and other public places, ch. 34.

State law reference(s)—Clean Indoor Air Act, NMSA 1978, § 24-16-1 et seq.

Sec. 18-131. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bar means an establishment that is devoted to the selling or serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of those beverages, including taverns, nightclubs, cocktail lounges and cabarets.

Cigar bar means an establishment that is a bar as defined in this section and is engaged in the business of selling cigars for consumption by patrons on the premises and generates ten percent or more of its total annual gross revenue or at least \$10,000.00 in annual sales from the sale of cigars, not including any sales from vending machines. A cigar bar that fails to generate at least ten percent of its total annual sales from the sale of cigars shall not be defined as a cigar bar and shall not be treated as such for purposes of this division. A cigar bar shall agree to provide adequate information to demonstrate to the county's satisfaction compliance with this definition.

Designated outdoor smoking area means an area where smoking may be permitted, designated by an employer or manager, outside an indoor workplace or indoor public place; provided that the following conditions are maintained:

- (1) Smoking shall not be permitted near any building entrance, including a door, window or ventilation system of any facility where smoking is prohibited under the provisions under this division so as to prevent secondhand smoke from entering the indoor workplace or indoor public place; and
- (2) Employees or members of the general public are not required to walk through the smoking area to gain entrance to the indoor workplace or indoor public place.

Dining area means any enclosed area containing a counter or tables upon which meals are provided. Any outdoor dining area is excluded.

E-cigarette means a product containing or delivering nicotine or another substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product, including a device, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah or vape pen, or under another product name or descriptor.

Employee means any person who is employed by an employer in consideration of the payment direct or indirect monetary wages or profit and includes any person who volunteers his services to a non-profit entity.

Employer means any person, partnership, corporation, including a non-profit entity, or the county which employs the services of one or more persons.

Enclosed means any interior space predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include uncovered openings, screened or otherwise partially covered openings or open or closed windows.

Indoor public place means the enclosed area within any governmental or nongovernmental place to which the public is invited or in which the public is permitted regardless of whether work or public business, meetings or hearings occur at any given time.

Indoor workplace means any enclosed place where one or more persons engage in work, including lobbies, reception areas, offices, conference and meeting rooms, employee cafeterias and lunchrooms, break rooms and employee lounges, classrooms, auditoriums, hallways, stairways, waiting areas, elevators and restrooms and includes all indoor workplaces and enclosed parts regardless of whether work occurs at any given time.

Private club means an organization, whether incorporated or not, that is the owner, lessee or occupant of a building or portion thereof used exclusively for the organization's purposes at all times, that is operated solely for

recreational, fraternal, social, patriotic, political, benevolent or athletic purposes, but not for pecuniary gain, and that only sells alcoholic beverages incidental to its operation. The organization shall have bylaws or a constitution to govern its activities and shall have been granted an exemption as a club under the provisions of Section 501 of the Internal Revenue Code of 1986 as amended.

Public place means any enclosed area to which the public is invited or in which the public is permitted, but does not include the offices or work areas not entered by the public in the normal course of business or use of the premises. A private residence is not a public place.

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products, including e-cigarettes, and accessories and in which the sale of other products is merely incidental, including smoke shops, cigar shops or hookah lounges, and does not include establishments that offer for sale alcoholic beverages for consumption by patrons on the premises.

Second hand smoke means:

- (1) Smoke emitted from inhaling from, exhaling from, burning, carrying or holding:
 - a. A lighted or heated cigar, cigarette, hookah or pipe; or
 - b. Any other lighted or heated tobacco or plant product intended for inhalation including cannabis, whether natural or synthetic; or
- (2) The aerosol or vapor emitted from inhaling or exhaling or any other use of an e-cigarette.

Smoke free area means any building or other enclosed space where smoking is prohibited.

Smoking means:

- (1) Inhaling from, exhaling from, burning, carrying or holding:
 - a. A lighted or heated cigar, cigarette, hookah or pipe; or
 - b. Any other lighted or heated tobacco or plant product intended for inhalation including cannabis, whether natural or synthetic; or
- (2) Any use of an e-cigarette that creates an aerosol or vapor.

Smoking permitted area means any building or other enclosed space where smoking may be permitted; provided that secondhand smoke does not infiltrate any area where smoking is prohibited pursuant to this article.

Standalone building means a building whose heating, air conditioning and ventilation system services only that building.

(Ord. No. 02-254, § 1, 3-3-2015; Ord. No. 02-300, § 1, 10-29-2019)

Sec. 18-132. Prohibition.

- (a) It is unlawful for a person to smoke in any indoor workplace or indoor public place or in buses, taxicabs or other means of public transit not specifically exempted pursuant to this division.
- (b) No portion of the grounds of the nature center located at 2600 Canyon Road shall be designated as a smoking-permitted area.

(Ord. No. 02-254, § 1, 3-3-2015)

Sec. 18-133. Prohibition of smoking near entrances, windows and ventilation systems.

- (a) Smoking is prohibited near entrances, windows and ventilation systems of all workplaces and public places where smoking is prohibited by this division. An individual who owns, manages, operates or otherwise controls the use of any premises subject to the provisions of this division shall establish a smoke free area that extends a reasonable distance from any entrances, windows and ventilation systems to any enclosed areas where smoking is prohibited. The reasonable distance shall be a distance sufficient to ensure that persons entering or leaving the building or facility shall not be subjected to breathing secondhand smoke and to ensure that secondhand smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means.
- (b) For county owned buildings, smoking shall be prohibited for a distance of 25 feet from doors, window and ventilation system intakes.

(Ord. No. 02-254, § 1, 3-3-2015; Ord. No. 02-300, § 2, 10-29-2019)

Sec. 18-134. Smoking-permitted areas.

Notwithstanding any other provisions of this division, smoking-permitted areas include the following:

- (1) A private residence, unless it is being used commercially to provide child care, adult care or health care or any combination of those activities;
- (2) A retail tobacco store; provided that, for a retail tobacco store established on or after the effective date of the ordinance from which this section is derived, the store shall be located in a standalone building;
- (3) A cigar bar; provided that, for a cigar bar established on or after the effective date of the ordinance from which this section is derived, the store shall be located in a standalone building;
- (4) The facilities of a tobacco manufacturing company licensed by the United States to manufacture tobacco products that are operated by the company in its own name and that are used exclusively by the company in its business of manufacturing, marketing or distributing its tobacco products; provided that secondhand smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited under this division;
- (5) A state-licensed gaming facility, casino or bingo parlor;
- (6) Designated outdoor smoking areas;
- (7) Private clubs;
- (8) Hotel and motel rooms that are rented to guests and are designated as smoking-permitted rooms; provided that not more than ten percent of rooms rented to guests in a hotel or motel may be so designated;
- (9) A site that is being used in connection with the practice of cultural or ceremonial activities by Native Americans and that is in accordance with the federal American Indian Religious Freedom Act; and
- (10) A theatrical state or a motion picture or television production set when it is necessary for performers to smoke as part of the production.

(Ord. No. 02-254, § 1, 3-3-2015; Ord. No. 02-300, § 3, 10-29-2019)

Sec. 18-135. Responsibilities of employer.

- (a) Employers shall provide that their places of employment meet the requirements of this division.
 - (b) An employer shall adopt, implement, post and maintain a written smoking policy pursuant to this division.
- (Ord. No. 02-254, § 1, 3-3-2015)

Sec. 18-136. Posting of signs.

- (a) To advise persons of the existence of smoke free areas or smoking-permitted areas, signs shall be posted as follows:
 - (1) For each indoor workplace or indoor public place where smoking is prohibited pursuant to this division, a "No Smoking" sign with letters of not less than two inches in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across the cigarette) shall be clearly, sufficiently and conspicuously posted where it is clear, conspicuous and easily legible at each public entrance. Posting of "No Smoking" signs is the responsibility of in every building or other place where smoking is regulated the owner, operator, manager or other person having control of the indoor workplace or indoor public place; and
 - (2) For each indoor workplace or indoor public place where smoking is permitted pursuant to this division, a "SMOKING PERMITTED" sign shall be posted where it is clear, conspicuous and easily legible at each public entrance, unless an owner, operator or manager chooses to prohibit smoking in all or part of an indoor workplace or indoor public place where smoking is otherwise permitted.
 - (3) Any public place where smoking is completely prohibited shall post a "No Smoking" sign as described in (1) above at each public entrance to the property.

Nothing in this article shall be construed so as to require the posting of signs at a residence except during the hours of business operation while it is being used commercially to provide child care, adult care or health care or any combination of those activities.

(Ord. No. 02-254, § 1, 3-3-2015)

Sec. 18-137. Enforcement of division provisions.

- (a) Any member of the county police department or the county fire department may issue a citation for any violation of this division.
 - (b) A person may register a complaint regarding an alleged violation pursuant to this division to initiate enforcement of that act with the county police department or the county fire department.
 - (c) The designated enforcement agencies may inspect an establishment for compliance with this article.
- (Ord. No. 02-254, § 1, 3-3-2015)

Sec. 18-138. Violations and penalties.

- (a) It is unlawful for any person, who owns, manages, operates or otherwise controls the use of premises subject to regulation under this division, to violate any of its provisions. The owner, manager or operator of premises subject to regulation under this division shall not be subject to a penalty if a person on the premises is in violation of this division, so long as the owner, manager or operator has posted signs,

established and implemented an appropriate policy and informed the individual that he is in violation of this division.

- (b) It is unlawful for any person to smoke in any area where smoking is prohibited by this division.
- (c) Any person who is convicted of violating any provision of this division shall be punished with:
 - (1) A fine of not more than \$100.00 for the first violation of this article;
 - (2) A fine not to exceed \$200.00 for the second violation of the division within any consecutive 12-month period of the first violation; and
 - (3) A fine not to exceed \$500.00 for the third and each subsequent violation of that act within any consecutive 12-month period of a previous violation.

(Ord. No. 02-254, § 1, 3-3-2015)

Sec. 18-139. Nonretaliation; nonwaiver.

- (a) A person or employer shall not discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or patron because that employee, applicant or patron exercises any rights afforded by this division or reports or attempts to prosecute a violation of the ordinance.
- (b) An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

(Ord. No. 02-254, § 1, 3-3-2015)

Secs. 18-140—18-190. Reserved.

DIVISION 3. SALES OF TOBACCO PRODUCTS TO MINORS

Sec. 18-191. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Minor means any individual under the age of 18 years.

Person means any individual over the age of 18 years or any partnership, firm, corporation or other entity.

Tobacco product intended for smoking means all tobacco products, except for those smokeless tobacco products, including chewing tobacco or snuff, which are regulated by the state pursuant to the Tobacco Products Act, NMSA 1978, § 30-49-1 et seq.

(Ord. No. 85-152, § 1, 1991; Code 1985, § 8.37.010)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 18-192. Prohibited acts.

It is unlawful for any person engaged in the sale of tobacco products intended for smoking knowingly to sell, barter, give or in any other way furnish to a minor any tobacco product intended for smoking.

(Ord. No. 85-152, § 1, 1991; Code 1985, § 8.37.020)

Sec. 18-193. Purchase of tobacco products.

It is unlawful for any minor to purchase, barter or in any other way receive any tobacco product intended for smoking from any person engaged in the sale of any tobacco product intended for smoking.

(Ord. No. 85-152, § 1, 1991; Code 1985, § 8.37.030)

Sec. 18-194. Point of sale signs.

Every person engaged in the retail sale of tobacco products intended for smoking shall prominently display in the place where such products are sold a printed sign or decal that reads as follows:

A PERSON LESS THAN 18 YEARS OF AGE WHO PURCHASES ANY TOBACCO PRODUCT INTENDED FOR SMOKING IS SUBJECT TO A FINE OF UP TO \$500.00. A PERSON WHO SELLS ANY TOBACCO PRODUCT INTENDED FOR SMOKING TO A PERSON LESS THAN 18 YEARS OF AGE IS SUBJECT TO A FINE OF UP TO \$500.00.

The provisions of this section shall apply to vending machines also.

(Ord. No. 85-152, § 1, 1991; Code 1985, § 8.37.040)

Sec. 18-195. Proof of age.

A person contemplating the dissemination of any tobacco product intended for smoking to an individual whom the person believes, or has reason to believe, may be a minor shall demand identification containing proof of age from the individual. It is unlawful for any minor to present identification that is other than his own or that does not contain the individual's correct age or date of birth.

(Ord. No. 85-152, § 1, 1991; Code 1985, § 8.37.050)

Sec. 18-196. Vending machines.

Tobacco products intended for smoking may be sold at retail through vending machines only:

- (1) In factories, businesses, offices or other places not open to the general public;
- (2) In places where minors are not permitted access;
- (3) In places where alcoholic beverages are offered for sale; and
- (4) When the machine is in an area not open to the general public.

(Ord. No. 85-152, § 1, 1991; Code 1985, § 8.37.060)

Sec. 18-197. Penalties for violation of division.

Any person or minor who shall be convicted of the violation of any provision of this division shall be punished by a fine not exceeding \$500.00. No person or minor shall be liable under this division for more than one violation in one day.

(Ord. No. 85-152, § 1, 1991; Code 1985, § 8.37.070)

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