



## Los Alamos County

### Community Development Department

### PLANNING & ZONING COMMISSION STAFF REPORT

**Public Hearing Date:** October 27, 2021  
**Subject:** Case No. ZCA-2021-0011, Ordinance No. 02-321, an ordinance amending the text of Chapter 16, Article I Section 9, and Article VII Section 288 and adding new Section 289, to adopt local regulations for cannabis retail sales and amending the text of Article VII Section 277 regarding home occupations  
**Applicant:** Los Alamos County, Community Development Department  
**Case Manager:** Bryce Ternet, Planning Manager

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**Case No. ZCA-2021-0011:** A request for approval of draft Ordinance No. 02-321, Text Amendments to Los Alamos County Code of Ordinances, Chapter 16, Article I Section 9, and Article VII Section 288 and adding new Section 289, to adopt local regulations for cannabis retail sales and amending the text of Article VII Section 277 regarding home occupations. **See Attachment A.**

The proposed text amendments and associated draft ordinance address cannabis retail sales within Los Alamos County (“the County”) and cannabis uses as defined by County Code as they pertain to home occupations. The proposed text amendments are submitted for consideration in response to the State of New Mexico enacting the Cannabis Regulation Act (“the Act”) legalizing the production, manufacturing, sale, and adult-consumption of cannabis throughout the State of New Mexico.

Los Alamos County is taking steps to address this statewide change. Ordinance No. 02-318 was adopted by the County Council on September 28<sup>th</sup>, approving text amendments to address cannabis cultivation and manufacturing within the County.

The Act expressly defines and limits the amount of local control a municipality or county can impose on the adult-use cannabis industry through its power to regulate land use within their territorial limits. The Act allows municipalities and counties to adopt time, place, and manner rules and regulations that do not conflict with the Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses as well as establishing rules and regulations for the smoking, vaporizing and ingesting of cannabis products within an indoor or outdoor cannabis consumption area.

However, the Act prohibits a municipality or county from:

- completely prohibiting the operation of licensed adult-use cannabis operations within its boundaries;
- preventing the transportation cannabis products on public roads when such transport is in compliance with the Act;
- prohibiting or limiting signage attached to or located on licensed premises that identifies the premises as a cannabis establishment;

- requiring a licensed premises or a cannabis consumption area to relocate more than three hundred feet from a school or daycare center that was in existence at the time the cannabis establishment was licensed; and
- requiring an existing licensee to relocate, or prohibit a person from producing homegrown cannabis as provided for in the Act.

By September 1, 2021, the State Cannabis Control Division (“the Division”) will start accepting applications for producers, microbusiness producers, and from medical cannabis businesses. By January 1, 2022, the Division will accept applications for all other license types, including for cannabis education and training programs. Legal sales begin on a date set by the Division, which can be no later than April 1, 2022.

Although the County’s Chapter 16 Development Code is currently undergoing an update process, the County is attempting to incorporate State law changes into County Code in order to have local regulations in place by January 1, 2022, or as soon as possible.

### **TEXT AMENDMENTS – Cannabis and Cannabis Retail**

Using State law as a guideline, staff has submitted proposed changes to County Code that address cannabis and cannabis retail sales. If approved, the proposed text amendments would be implemented through the adoption of Ordinance 02-321. ***See Attachment B.***

The proposed additions to County Code include definitions within the code for cannabis and cannabis retail as a use category and local regulations for cannabis retail establishments. Proposed additions also include amending the Use Index Table by adding cannabis retail as a use category, then identifying within which zoning districts of the County this use may be permitted as an allowable (i.e. permitted) or accessory use.

Proposed text amendments regarding cannabis retail use as included in the ordinance are provided below.

### ***Definitions***

The proposed definitions within the ordinance are:

*Cannabis* means all parts of the plant genus Cannabis as defined by the Cannabis Regulation Act (“Act”).

*Cannabis retail* concerns a retail sales establishment licensed by the State to sell cannabis products to qualified patients, primary caregivers, and reciprocal participants as defined by the Act, or directly to consumers.

The proposed definitions have been developed based on State definitions for cannabis and cannabis retail use.

### ***Regulations***

Proposed local regulations within the ordinance for the defined cannabis retail use include:

*(a) This use must comply with all applicable local and State regulations and licensing.*

*(b) No cannabis retail establishment shall be licensed if located within 300 feet of a school or daycare*

center.

(c) No cannabis retail establishment shall be licensed if within 300 feet of another cannabis retail establishment.

(d) It shall be unlawful for any cannabis retail establishment licensed pursuant to this development code to remain open to the public at any time other than between the hours of 7:00 a.m. and 12:00 a.m. daily.

(e) Cannabis retail establishments shall not be permitted to have designated indoor cannabis vaping or outdoor cannabis vaping and smoking areas.

The Act allows local governments to establish buffer zones from schools or daycare centers. The proposed buffer zone of 300 feet has been proposed and has been adopted by other New Mexico cities and counties.

The Act allows local governments to consider applying density restrictions between cannabis retail establishments. The proposed buffer zone of 300 feet has been proposed by staff based as a basis to reasonably limit density of such establishments in the commercial, downtown, and mixed-used zones. It is also comparable to how other cities and counties have addressed this issue when applying a density limit to cannabis retail operations within their jurisdictions. **Attachment C** provides an illustration of a 300 feet density limit within areas where cannabis retail use would be allowed as a permitted or accessory use within the County.

The Act allows local governments the ability to establish hours of operation for cannabis retail operators. The proposed time period matches existing hours of operation limits for liquor stores as currently regulated by the State.

The Act allows local governments the ability to allow or prohibit cannabis retail stores having on-site consumption areas. Based on recent regulations passed by regional jurisdictions, staff recommends against allowing on-site consumption areas attached to cannabis retail stores.

### Use Index Table

Cannabis retail use is proposed to be an allowable use as permitted or accessory use generally where retail use is allowed as permitted or accessory in the County's commercial, manufacturing, downtown, and mixed-use districts, as displayed in the table below.

Name	R-A	R-E	R-1	R-M	R-3-L	R-3-H	R-3-H-4-0	R-4	R-5	R-6	*P-D	C-1	C-2	C-3	R&D	M-1	M-2	W-1	W-2	P-O	DT-CP-O	DT-TC-O	DT-NC-O	DT-NG-O	M-U
Retail businesses	A	A	A	A	A	A	A	A	A	A	A	P	P	P	A	A	A			A	A	P	P	P	P
<u>Cannabis retail</u>												P	P	P		A	A					P	P	P	A

Staff has proposed that cannabis retail be allowed in the County's Commercial zoning districts (C1, C2, and C3) as a permitted use, just as existing retail use is permitted within these zones. Staff has proposed

cannabis retail use be allowed as an accessory use within the County's Manufacturing zoning districts (M1 and M2), just as existing retail use is allowed as an accessory use within these zones. Staff has proposed that cannabis retail be allowed in the Downtown zoning districts (DT-TC, DT-NC, and DT-NG) as a permitted use, just as existing retail use is permitted within these zones. Staff has proposed that cannabis retail be an accessory use, and not a primary use, within the Mixed-Use district, due to the fact that the Mixed-Use zone allows for residential uses as well. **Attachment D** displays proposed zoning districts for cannabis retail as a permitted or accessory use.

Staff has proposed that cannabis retail use not be an allowable use as an accessory use within any residential zone district. Staff has proposed that cannabis retail not be an accessory use within the Research and Development (R&D) zoning district as the County's existing zoning map includes an area of Los Alamos National Laboratory (LANL) identified as R&D which the County does not have jurisdiction over, and a small parcel on North Mesa which is located within a primarily residential area. Staff has proposed that cannabis retail not be allowed as an accessory use within the Professional Office (PO) district as the intent of the zone district to only allow retail uses if they are subsidiary to professional services is not perceived as compatible with cannabis retail use. And lastly, staff has proposed that cannabis retail not be an accessory use in the specific Downtown zoning district of DT-CPO as this area contains Fuller Lodge, Ashely Pond, the library and other amenities which are not perceived as being compatible with allowing cannabis retail as an accessory use.

Staff recommendations are based on where existing permitted retail uses are allowed as permitted or accessory uses with the County, and on staff's expertise in the interpreting the intent of zoning district standards.

#### **TEXT AMENDMENTS – Home Occupations**

The proposed ordinance also includes text amendments to Article VII, Section 277 and 278. Section 277 would be amended to identify that within the Residential/Agricultural (R-A) district, cannabis manufacturing, cannabis retail and cannabis cultivation, except as authorized by the State as licensed producer pursuant to the Lynn and Erin Compassionate Use Act (i.e. medical marijuana), are not allowed as home occupation uses. Section 278 would be amended to identify that within all other residential zone districts, cannabis manufacturing, cannabis retail and cannabis cultivation, except as authorized by the State as licensed producer pursuant to the Lynn and Erin Compassionate Use Act (i.e. medical marijuana), are not allowed as home occupation uses.

Staff recommendations are based on similar actions having been adopted by regional jurisdictions and staff expertise in interpreting the intent of zoning district standards.

#### **INTERDEPARTMENTAL REVIEW COMMITTEE (IDRC) REVIEW**

On October 13, 2021, the County IDRC reviewed the application and unanimously approved to move it forward to the Planning and Zoning Commission for consideration of recommending approval to County Council.

The IDRC requested the Commission consider adding to the proposed local regulations regarding cannabis retail use by including a 300 foot buffer from churches, in addition to schools and daycare centers. If the Commission were to include this provision within the ordinance the following would be included as Section 16-288 (b):



(b) No cannabis retail establishment shall be licensed if located within 300 feet of a school, daycare center, or church.

#### **PUBLIC NOTICE**

Notice was provided at least 15 days prior to the public hearing within accordance to the Los Alamos County Code of Ordinances, Chapter 16, Development Code, Sec. 16-192 (a), which includes:

- (1) Publication within the Los Alamos Daily Post, the County's official newspaper of record (published 10/7/2021); and
- (2) Posting at the Los Alamos County Municipal Building (10/7/2021)

#### **TEXT AMENDMENT REVIEW CRITERIA**

***Sec. 16-158. - Amendment to text. During the course of the review of any request for amendment to the text of this chapter, including determination of uses and addition, deletion or change in the Use Index, the IDRC shall utilize the following criteria in formulating a recommendation to the planning and zoning commission; and the planning and zoning commission shall utilize the following criteria in making its recommendation to the county council. The county council shall utilize the following criteria in making its determination of approval or denial:***

- 1. The request substantially conforms to the comprehensive plan and shall not be materially detrimental to the health, safety and general welfare of the county;***

**Staff Response:** The proposed text amendments are in response to the passing of New Mexico State Cannabis Regulation Act legalizing cannabis cultivation, manufacturing, and retail sales. Per State guidance, the cultivation, manufacturing, and retail sale of cannabis are no longer considered as criminal activities and are hereafter to be incorporated into permitted State and municipal manufacturing and retail use. The proposed text amendments provide further clarification of State guidelines specifically for Los Alamos County. Therefore, as the County seeks to provide clarification and institute local regulation regarding retail sale of cannabis and home occupations related to all cannabis uses, the proposed text amendments conform with the comprehensive plan's goal to provide for the health, safety and general welfare of the county.

- 2. A request for amendment to the comprehensive plan shall, if necessary, be submitted concurrently with the request for amendment to the text of this chapter.***

**Staff Response:** The proposed text amendments apply to County development code only and would not require a subsequent amendment to the County's comprehensive plan.

- 3. The proposed change will not result in land use inconsistent with the purpose of the district or incompatible with a use allowed in the district.***

**Staff Response:** Proposed text amendments specify that retail sales of cannabis shall only be allowed in zoning districts currently allowing retail sales. Additionally, specific measures regarding proximity to sensitive uses shall apply. Therefore, cannabis-related uses would not be inconsistent with existing zoning districts based on proposed text amendments.

***4. The proposed change will clarify existing language, remove redundant or inconsistent language or will simplify the understanding and implementation of the Code.***

**Staff Response:** The proposed text amendments will not result in land use inconsistent with the purpose of the district or result in an incompatible use allowed in a district as State guidelines require local jurisdictions to address cannabis retail sale similar to how comparable retail uses are already addressed in local controls. Therefore, the proposed text amendments would provide clarification specifically for Los Alamos County based on State guidelines.

**PROPOSED FINDINGS OF FACT**

1. The application ZCA-2021-0008 is a request for approval of draft Ordinance No. 02-318, Text Amendments to Los Alamos County Code of Ordinances, Chapter 16, Article I Section 9, and Article VII Section 287 and adding new Sections 288 and 289, to adopt local regulations for cannabis cultivation, manufacturing, and retail sales.
2. The proposed text amendments are in response to the passing of New Mexico State Cannabis Regulation Act legalizing cannabis cultivation, manufacturing, and retail sales. Per State law, the cultivation, manufacturing, and retail sale of cannabis are no longer considered as criminal activities and are proposed to hereafter to be incorporated into permitted State and municipal manufacturing and retail use. The proposed text amendments provide Los Alamos County to adopt time, place and manner rules within its local jurisdiction. Therefore, as the County seeks to provide clarification and institute local regulation regarding the cultivation, manufacturing, and retail sale of cannabis, the proposed text amendments conform with the comprehensive plan's goal to provide for the health, safety and general welfare of the county.
3. The proposed text amendments apply to County development code only and would not require a subsequent amendment to the County's comprehensive plan.
4. The proposed text amendments will not result in land use inconsistent with the purpose of the district or result in an incompatible use allowed in a district as State law permits local jurisdictions to address the retail sale of cannabis similar to how existing uses are already addressed in local controls. Therefore, the proposed text amendments consider cannabis retail sales as considered by existing code regarding retail services.
5. Proposed text amendments specify that retail sale of cannabis shall only be allowed in zoning districts currently allowing retail sales as either permitted or accessory uses. Therefore, cannabis retail-related uses would not be inconsistent with existing zoning districts based on proposed text amendments.
6. The proposed text amendments will not result in land use inconsistent with the purpose of the district or result in an incompatible use allowed in a district as State law permits local jurisdictions to address retail sale of cannabis similar to how existing uses are already addressed in local controls. Therefore, the proposed text amendments would provide clarification specifically for Los Alamos County based on State guidelines.
7. Notice of this public hearing, setting forth the nature of the request, and the date, time and place of the public hearing, was announced and published in The Los Alamos Daily Post, the official newspaper of record; all in accordance with the requirements of §16-192 of the Los Alamos County Development Code.
8. The proposed application, ZCA-2021-0011, including attached draft Ordinance No. 02-318, were presented to the Planning & Zoning Commission for consideration of recommending approval of the application to the County Council on October 27, 2021.

## **PROPOSED CONCLUSIONS OF LAW**

After full hearing and consideration, the Planning and Zoning Commission finds that the application has met each applicable County Code text amendment criteria contained in §16-158 of the Los Alamos County Development Code and is acting under the authority granted it by §16-452(b)(1)(a) of the Development Code.

## **MOTION**

### **Motion Option 1:**

I move to **recommend approval** of Case No. ZCA-2021-0011 to County Council for text amendments to Los Alamos County Code, Chapter 16-543 as presented in the application. Recommendation is based on the Findings of Facts established at the hearing and conclusion that the application has met each applicable review criteria contained in §16-158 of the Los Alamos County Development Code and that the Commission is acting under the authority granted by §16-452(b)(1)(a) of the Development Code.

I further move to authorize the Chair to sign a Final Order approving the application and Findings of Fact and Conclusions of Law for this case, based on this decision and to be subsequently prepared by County staff.

### **Motion Option 2:**

I move to **recommend denial** of application number ZCA-2021-0011, text amendments to Los Alamos County Code, Chapter 16 to County Council as the proposed text amendments do not conform to the review criteria within §16-158 of the Los Alamos County Development Code.

I further move to authorize the Chair to sign a Final Order recommending denial of the application to County Council, based on this decision and to be subsequently prepared by County staff.

## **EXHIBITS**

Attachment A: Text Amendment Application (ZCA-2021-0011)

Attachment B: Draft Ordinance No. 02-321

Attachment C: 300 Foot Cannabis Retail Buffer Map

Attachment D: Proposed Cannabis Retail Zoning Districts

## TEXT AMENDMENT APPLICATION

Los Alamos County Community Development Department  
1000 Central Ave, Suite 150, Los Alamos NM 87544  
(505) 662-8120

*Note: The Planning & Zoning Commission considers Applications for Text Amendments at a public hearing and recommends approval or denial to the County Council. Council has final authority to approve or deny.*

**Describe the purpose of the proposed amendment:**

The purpose of the proposed amendment is to include within County Code provisions concerning cannabis retail sales. The proposed text amendments are in response to passing of the New Mexico State Cannabis Regulation Act legalizing the production, distribution, and retail sale of cannabis.

**Provide the existing (if applicable) and proposed text. (Use strikeouts for any text to be removed and underline any new language proposed.) Use this space or attach additional sheet(s):**

Draft Ordinance 02-321 includes strikeouts for any text to be removed and underlining for new proposed language.

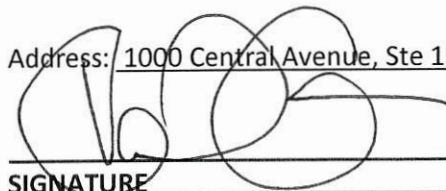
**APPLICANT** (Unless otherwise specified, all communication regarding this application shall be to Applicant):

☐ **Check here if Applicant is County Staff.** Indicate Department and Title: Community Development

Department, Community Development Director

Name: Paul Andrus Phone: 505-662-8055

Address: 1000 Central Avenue, Ste 150, Los Alamos, NM 87444 Email: paul.andrus@lacnm.us



SIGNATURE

9/30/2021

DATE

**TEXT AMENDMENT REVIEW CRITERIA:**

**The Los Alamos County Code of Ordinances, Chapter 16, Development Code, Sec. 16-158:**

*During the course of the review of any request for amendment to the text of this chapter, including determination of uses and addition, deletion or change in the Use Index, the planning and zoning commission shall utilize the following criteria in making its recommendation to the county council. The county council shall utilize the following criteria in making its determination of approval or denial:*

**Please provide your response to each of the following criteria. (Attach additional sheets if needed.)**

- (1) *The request substantially conforms to the comprehensive plan and shall not be materially detrimental to the health, safety and general welfare of the county;***

The proposed text amendments are in response to the passing of New Mexico State Cannabis Regulation Act legalizing cannabis cultivation, manufacturing, and retail sales. Per State guidance, the cultivation, manufacturing, and retail sale of cannabis are no longer considered as criminal activities and are hereafter to be incorporated into permitted State and municipal manufacturing and retail use. The proposed text amendments provide further clarification of State guidelines specifically for Los Alamos County. Therefore, as the County seeks to provide clarification and institute local regulation regarding retail sale of cannabis, the proposed text amendments conform with the comprehensive plan's goal to provide for the health, safety and general welfare of the county.

- (2) *A request for amendment to the comprehensive plan shall, if necessary, be submitted concurrently with the request for amendment to the text of this chapter.***

The proposed text amendments apply to County development code only and would not require a subsequent amendment to the County's comprehensive plan.

- (3) *The proposed change will not result in land use inconsistent with the purpose of the district or incompatible with a use allowed in the district.***

Proposed text amendments specify that retail sales of cannabis shall only be allowed in zoning districts currently allowing retail sales. Additionally, specific measures regarding proximity to sensitive uses shall apply. Therefore, cannabis-related uses would not be inconsistent with existing zoning districts based on proposed text amendments.

- (4) *The proposed change will clarify existing language, remove redundant or inconsistent language or will simplify the understanding and implementation of the Code.***

The proposed text amendments will not result in land use inconsistent with the purpose of the district or result in an incompatible use allowed in a district as State guidelines require local jurisdictions to address cannabis retail sale similar to how comparable retail uses are already addressed in local controls. Therefore, the proposed text amendments would provide clarification specifically for Los Alamos County based on State guidelines.

**THIS SECTION TO BE COMPLETED BY THE COMMUNITY DEVELOPMENT DEPARTMENT**

**For County Use:**

**Date of Submittal:** September 30, 2021

**Staff Initial:** DJ

**CDD Application Number:** ZCA-2021-0011

**Fees Paid:** NA



**INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE 02-321**

**AN ORDINANCE AMENDING THE TEXT OF CHAPTER 16,  
ARTICLE I SECTION 9, AND ARTICLE VII SECTION 288 AND  
ADDING A NEW SECTION 289, TO ADOPT LOCAL  
REGULATIONS FOR CANNABIS RETAIL SALES AND  
AMENDING THE TEXT OF ARTICLE VII SECTION 277  
REGARDING HOME OCCUPATIONS**

**WHEREAS**, the Incorporated County of Los Alamos (“County”) is an incorporated county of the State of New Mexico as provided in Section 5, Article 10 of the New Mexico Constitution; and

**WHEREAS**, County, pursuant to Section 5, Article 10 of the State Constitution, is also granted all powers of a municipality; and

**WHEREAS**, the New Mexico Legislature, pursuant to Chapters 3, 4, and 5 of the New Mexico Statutes Annotated (*see generally* NMSA 1978, § 3-18-1 *et seq.*) has given municipalities and counties the power to regulate land use within their territorial limits; and

**WHEREAS**, such authority, NMSA 1978, Section 3-18-17, includes the power to regulate private and public property and nuisances; and

**WHEREAS**, County, in Chapter 16 of the Los Alamos County Code of Ordinances (“Code”), has enacted ordinances regulating the zoning, planning, and use of land within its borders; and

**WHEREAS**, the County Council, in Article XIII of Chapter 16 of the Code, has enacted ordinances to provide for the various zoning of land within the County; and

**WHEREAS**, the “Cannabis Regulation Act,” was enacted into law on April 12, 2021; and codified in Article 2C of Chapter 26 (“New Mexico Drug, Device and Cosmetic Act”), in particular NMSA 1978 §§ 26-2C-1 — 26-2C-42; and

**WHEREAS**, NMSA § 26-2C-12 expressly defines and limits the amount of local control a municipality or county can impose on the adult-use cannabis industry through its power to regulate land use within their territorial limits; and

**WHEREAS**, NMSA § 26-2C-12 allows municipalities and counties to adopt time, place, and manner rules and regulations that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses as well as establishing rules and regulations for the smoking, vaporizing and ingesting of cannabis products within an indoor or outdoor cannabis consumption area; and

**WHEREAS**, NMSA § 26-2C-12 prohibits a municipality or county from completely prohibiting the operation of licensed adult-use cannabis operations allowed under the Act; preventing the transportation cannabis products on public roads when such transport is in compliance with the Act; prohibit or limit signage attached to or located on licensed premises that identifies the premises as a cannabis establishment; require a licensed premises or a cannabis consumption area to any more than three hundred feet from a school or daycare center that was in existence at the time the cannabis establishment was licensed; require an existing licensee to relocate, or prohibit a person from producing homegrown cannabis as provided for in the Act; and

**WHEREAS**, the County Council, after a properly noticed public hearing held on (DATE TO BE INSERTED), 2021, and due consideration and recommendation by the Planning and Zoning Commission, hereby finds that the adoption of local regulations regarding cannabis cultivation, manufacturing, and retail sales, is in the best interest of the County.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS:**

**Section 1.** Article I, Section 9 of Chapter 16 of the County Code of Ordinances of the Incorporated County of Los Alamos, is hereby amended, as follows:

Sec. 16-9. - Definitions and rules.

(a) *Rules.* The following rules apply to definitions listed in this chapter:

- (1) *Usage.* Any numbers, abbreviations, terms or words defined in this section shall be used and interpreted, only as defined in this chapter. All other numbers, abbreviations, terms and words shall have their generally accepted meaning.
- (2) *Word forms.* Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the future tense include the present tense; words used in the plural number include the singular and words used in the singular include the plural.
- (3) *Interpretation of specific terms.* The words "shall" and "will" are mandatory. The word "may" is permissive. The word "structure" includes a "building"; the word "building" or "structure" includes any part thereof. The word "person" includes an individual, a partnership, a corporation, an incorporated association of persons such as a club, and a public entity.
- (4) *Definitions listed in the New Mexico Building Code.* Words not defined in this chapter but which are defined in the New Mexico Building Code as adopted by the county are to be construed as defined therein.

(b) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Abandoned structure* means a structure that has not been used for a use authorized by this chapter for a period of three consecutive months and for which the owner has received, by registered mail, a notice of violation of the building code.

*Abut* means next to, touching; to share a common property line.

*Access* and *accessway* means the place, means of or ingress and egress to a property or use.

*Accessory apartment* means separate living quarters on the same lot as, and used in conjunction with, a main dwelling, and rented as a separate dwelling.

*Accessory building* means a building, the use of which is incidental to the use of the main building on a lot. A building attached by wall or roof to the main building is not an accessory building, but is a part of the main building.

*Accessory use* means a use incidental and subordinate to the permitted or special use of the premises.

*Adjacent* means next to; sharing a common boundary. For example, an industrial district across the street from a residential district is adjacent to that district.

*Agent* means legally authorized designee of an owner or applicant. Also see "Owner."

*Aggrieved party* means any person who:

- (1) Is required to be served with notice by mail under this chapter; or
- (2) Has an immediate, pecuniary and substantial interest, with respect to any final action taken pursuant to this chapter.

*Alley* means a public way which is owned by the public and is a secondary means of vehicular access to abutting properties. Alleys shall not be permitted in any district.

*Apartment, hotel or motel* means a building or group of buildings operated as one enterprise, containing rooms or suites of rooms (with or without a kitchen) to be occupied by transient or permanent tenants.

*Apartment house* means a multiple-family dwelling structure.

*Applicant* means any person or his legally authorized agent authorized by this chapter to make application to initiate any action provided in this chapter.

*Application* means a formal request made by an applicant and/or agent to initiate any action as provided in this chapter, using forms provided by the community development department for this purpose.

*Area, floor*, means the area of all floors, including a basement, in a building, exclusive of exterior courts, garages and carports. All horizontal dimensions are taken from the exterior faces of walls, including enclosed porches.

*Area, gross*, means the area of a horizontal plane within the property lines of a lot before the area of public streets, easements or other land to be designated for public use is deducted.

*Area, net building site*, means the area of a horizontal plane within the property lines of a lot, less the area of all land designated for public use and less the area of all required yards.

*Automobile service station* means a retail place of business engaged solely or primarily in the sale of motor fuels, goods or services generally required in the operation and maintenance of motor vehicles and in the fulfilling of the motorist's needs. Major automobile repair activities such as body painting, body and fender repair, major mechanical repair, tire recapping, or the rental of equipment and the sale or rental of other merchandise are not uses included in the uses of a service station, although they may be performed at the same location.

*Balcony* means an open platform projected from a wall of a building or structure above the first floor level, and totally unsupported by any additional means by or to the ground.



*Banner* means any sign of lightweight fabric or similar material that is temporarily or permanently mounted to a pole, structure or a building. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

*Bar.* See "cocktail lounge or bar."

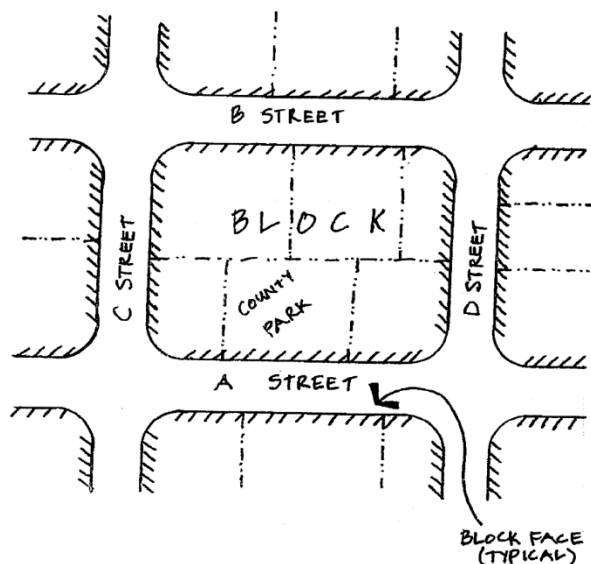
*Baseline data* means information on the current usage of a public facility compared with its capacity including, but not limited to, streets, sewers, water lines, drainageways, etc.

*Bed and breakfast* means an owner-occupied dwelling unit that contains no more than five guestrooms where lodging, with or without meals, is provided for compensation.

*Benchmark* means a mark on a permanent monument indicating elevation and serving as a reference in topographical surveys.

*Block* means a unit of land bounded by streets or by a combination of streets and public land or any other barrier to the continuity of development. See figure "block and block-face".

*Block-face* means abutting properties on one side of a street and lying between the two nearest intersecting streets or an intersecting street and unsubdivided land or county owned property. See figure "block and block-face".



*Boardinghouse* means a building where lodging is provided with meals for compensation; it does not mean rest homes or homes for the aged.

*Board of adjustment* means the board appointed by the county council to hear applications for waivers as specified in this chapter.

*Bond* means any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the county attorney and the county council. All bonds shall be approved by the county engineer wherever a bond is required by this chapter.

*Boundary monument* means a permanent object indicating a corner in the boundary of a lot.

*Breezeway* means a roofed, open-sided passageway which provides direct access between buildings.

*Buffer area* means a strip of land designed to separate portions of a subdivision or development from adjacent arterial or collector streets or from uses located on adjacent properties.

*Building* means any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

*Building, main,* means a building within which is conducted one or more permitted or special uses. There may be more than one main building on a lot depending on the district designation.

*Building marker* means any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

*Business park* means a building or assembly of buildings on a single lot adaptable to a combination of office, light storage, distribution, and showroom uses, where a minimum of 25 percent of the floor area is used for office space and where common parking, access and maneuvering is provided.

*Caliper* means the diameter of the main stem of a tree or shrub measured eight inches above the ground.

*Campground* means an open area where temporary overnight residency is available for tent, trailer, truck campers and/or recreational vehicles.

*Cannabis* means all parts of the plant genus Cannabis as defined by the Cannabis Regulation Act ("Act").

*Cannabis cultivation and manufacturing facility* is a facility in which cannabis is grown, harvested, dried, cured, or trimmed for consumption by smoking or inhalation, or cannabis is processed into products intended for use or consumption other than by smoking or inhalation, including but not limited to, edible products, ointments, and tinctures.

*Cannabis retail* concerns a retail sales establishment licensed by the State to sell cannabis products to qualified patients, primary caregivers, and reciprocal participants as defined by the Act, or directly to consumers.

*Caretaker* means the individual who takes care of property.

*Caretaker's unit* means the dwelling unit of the caretaker. Caretaker's units shall allow for spouses and dependent children. The dwelling unit may be within one of the structures located on the lot; it does not mean a dwelling unit used by others than the caretaker.

*Carport* means a permanent roofed structure with not more than two enclosed sides used or intended to be used for automobile storage.

*Carwash* means:

- (1) An "automatic carwash" means a building or portion thereof containing facilities for washing automobiles using production line methods with a chain conveyer, blower, steam cleaning device or other mechanical devices.
- (2) A "self-service carwash" means a building or portion thereof containing facilities for washing automobiles wherein the customer parks the vehicle in a bay and washes the vehicle using equipment provided.

*Child care center* means a home or business which provides care, service and supervision for more than 12 children at one time for less than 24 hours per day; provided, however, that

such center is licensed by the county and state and is conducted in accordance with county and state requirements.

*Church* means a permanent building used primarily for religious worship, fully enclosed with walls, including windows and doors, and having a permanent roof.

*Club, private*, means an association of persons, whether or not incorporated, for social or recreational purposes and for purposes and activities generally not for personal gain and not elsewhere defined as a commercial or professional purpose or activity; it does not mean a group organized solely or primarily to render a service as a business for profit.

*Cocktail lounge or bar* means premises where alcoholic beverages are sold to the public for consumption on the premises.

*Commerce or commercial* means the purchase, sale or other financial transaction involving the handling or disposition of any article, substance or commodity; or the management of office buildings, offices, recreational or amusement enterprises; or the maintenance and use of offices, structures and premises by professions and trades rendering services; by for profit or not-for-profit uses.

*Commercial center* means a building or assembly of buildings on one lot that may contain retail, offices, restaurants, lodging, theaters, automobile services, or other uses permitted by the zoning district, and that provide common parking and access.

*Communication transmission tower* means a self-supporting and freestanding elevated structure designed to provide a place used for transmitting information by radio, television, microwave or other electromagnetic energy signals.

*Complex* means a combination of two or more uses located on the same lot and sharing common facilities. Included in this definition are multiple building complexes.

*Comprehensive plan* means the plan adopted by the county to guide overall growth and development and capital improvement planning in the county, and includes amendments to that plan, which may be made from time to time.

*Condominium* means an estate in real property consisting of an individual interest in common in a parcel of real property, together with separate ownership of space within such real property. A condominium is not a cooperative.

*Consolidation plat* means a plat showing the combining of two recorded lots into one lot.

*Construction plans* means the maps or drawings submitted prior to a final subdivision plat showing the specific location and design of improvements to be installed in a subdivision including, but not limited to, streets, sidewalks, utilities and drainage facilities.

*Convalescent home* means a public or private facility which provides bed and ambulatory care, not at the level of a hospital, for patients and for persons who are unable to care for themselves; it does not mean a facility which provides care or treatment of alcoholics, drug addicts or persons with mental diseases or afflictions.

*Cooperative* means a development that is collectively owned by members and operated for their mutual benefit. Each member is an owner and has an individual interest in the entire development. Each member in a residential cooperative has a lease for his own apartment, space or site but does not own the apartment, space or site. A cooperative is not a condominium.

*Correction plat* means the correction of an error, other than a lot line adjustment, after approval and recording of a plat.

*County* means the incorporated county of Los Alamos, New Mexico.

*County attorney* means the county attorney for the County of Los Alamos.

*County clerk* means the elected clerk of the County of Los Alamos or his agent.

*County community development director* or *community development director* means the director of the county of Los Alamos Community Development Department or its successor, or the community development director's designee.

*County council* means the county council for the County of Los Alamos.

*County engineer* means the county engineer for the County of Los Alamos or his agent.

*County manager* means the county manager for the County of Los Alamos.

*County public works director* means the public works director for the county or his agent.

*County surveyor* means the surveyor of the county or his agent.

*County utilities manager* means the utilities manager for the county or his agent.

*Court* and *courtyard* mean an open, structurally unoccupied space, other than an open yard, on the same lot with a main building, and bounded on two or more sides by such building or exterior walls or fences.

*Crosswalk* means that portion of a pedestrian walkway which intersects and crosses a street.

*Cul-de-sac* means a street with one end open for vehicular and pedestrian access and the other end terminating in a vehicular turnaround.

*Day care center.* See "day care facility."

*Day care facility* means a home or business which provides care, service and supervision for at least four but not more than 12 children at one time for less than 24 hours per day; provided, however, that such facility is licensed by the county and state and conducted in accordance with county and state requirements.

*Day care home* means a residence which provides care, services and supervision for not more than four children at one time who do not normally reside in the home, for less than 24 hours per day; provided, however, that such center is licensed by the county and conducted in accordance with county requirements.

*Debris* means the remains of past construction, hobbies and other activities, which have not been removed for over a year.

*Decision-making authority* means the community development director, the board of adjustment, the planning and zoning commission, or the county council, as appropriate, given the authority to take the action in question under this County of Los Alamos Development Code.

*Dedicated land* means land transferred by a subdivider to the county, in fee simple ownership, for public use.

*Density* means the total number of dwelling units permitted on an acre of land.

*Developer* means the legal or beneficial owners of a lot or parcel of any land proposed for inclusion in a development, including an agent and/or the holder of an option or contract to purchase.

*Development* means the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any buildings, any use or change in use of any buildings or land,

any extension of any use of land or any clearing, grading or movement of land, for which permission is required pursuant to this chapter.

*Development code* means this chapter.

*Development plan* means the master schematic layout prepared as part of a special plan (SP) district submittal for an individual site or subdivision which summarizes the general project concept, allowable land uses, densities and development standards, and which shows developable and undevelopable areas, major streets, utilities, drainage ways, recreation and open space areas, buffers to adjacent land uses, and proposed general development areas.

*Dormitory* means a building used principally for sleeping accommodations, related to an educational or research institution.

*Drainage* means:

- (1) Surface water runoff;
- (2) The removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion, flooding and sedimentation during and after construction or development.

*Drainage system* means natural swales and/or manmade improvements designed to accommodate drainage on a parcel.

*Drive-in or drive-through facility* means that portion of a commercial establishment which is designed and operated for the purpose of serving a motorist in a vehicle.

*Driveway* means a vehicular accessway to an off-street parking facility.

*Dry-cleaning, coin-operated*, means the use of single-batch, automatic cleaning machines, activated by the insertion of a coin.

*Duplex*. See "dwelling, two-family."

*Dwelling* means a building containing one or more dwelling units.

*Dwelling, group*, means a combination or arrangement of dwellings on one lot.

*Dwelling, loft*, means any type of dwelling located in a building that has no dwellings on the ground floor.

*Dwelling, multiple-family*, means a dwelling containing three or more dwelling units on one lot.

*Dwelling, single-family*, means a dwelling containing only one dwelling unit; it does not mean a mobile home.

*Dwelling, single-family attached*, means a dwelling containing only one dwelling unit and joined on one or more sides by a common wall without openings to another or other single-family dwellings on separate lots.

*Dwelling, single-family detached*, means a dwelling containing only one dwelling unit, surrounded by open space.

*Dwelling, two-family*, means a structure containing two dwelling units on one lot.

*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.

*Easement* means a grant of use of land for a specific purpose, by the owner of the property to another person.

*Equestrian trail* means a trail or pathway intended for use by persons on horseback, or pedestrians.

*Escrow* means a sum of money deposited with the county to ensure completion of subdivision improvements to county standards.

*Escrow agreement* means a signed contract approved by the county attorney between a developer and the county that ensures completion of subdivision improvements in compliance with the standards of this chapter.

*Excavation* means removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substance other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

*Family* means an individual living alone; two or more persons related by blood or marriage, or between whom there is a legally recognized relationship, occupying the same dwelling unit; or a group of not more than five unrelated persons, excluding servants, occupying the same dwelling unit.

*Fence* means any structural device forming a physical barrier between two open areas. It may be made of wire mesh, steel mesh, chainlink, louver, stake, masonry, lumber or other similar materials or any combination thereof.

*Fence height* means the vertical distance measured from the ground level to the highest adjacent board, rail, post, or wire, including retaining walls. See section 16-271, for the use and location of barbed wire.

*Findings* means a written statement of the reasons supporting a decision made by any reviewing body in the land development review process.

*Flag* means any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

*Floor area, gross*, means the sum of the total horizontal areas of the several floors of all structures on a lot, measured from the outside faces of exterior walls. Basements, elevator shafts, hallways and stairwells at each story, floor space used for mechanical equipment with structural headroom of six feet, six inches or more, penthouses, attic space whether or not a floor has actually been laid that provides structural headroom of six feet, six inches or more, interior balconies, and mezzanines are all included.

*Floor area, net usable*, means the sum of the total horizontal areas of all floors in a building, including basement, that are designed for tenant occupancy and exclusive use and measured to the inside faces of exterior walls. Garages, carports, unoccupied exterior courts, enclosed porches, mezzanines, hallways, mechanical rooms, closets, service areas and similar areas, as measured from the inside faces of exterior walls, are all excluded.

*Front* means that side of a building or property serving as the principal entrance.

*Frontage* means that side of a lot abutting on a public right-of-way; regarded as the front of the lot.

*Garage, private*, means a portion of a main building or a detached accessory building, having a roof and enclosed by walls on not less than three sides, and designed or used for the housing of vehicles of the occupants of the main building.

*Garage, public*, means a building used for the care, repair, equipping, hire, sale or storage of motor vehicles.

*Gate* means an opening of sufficient size as part of a wall or fence that permits ingress and egress.

*Gift shop*. See "souvenir shop."

*Government uses* means those uses that result from the exercise of local, state or federal government powers and duties.

*Grade* means the average elevation of the finished ground surfaces surrounding a building. When applying to a street or other area, the term "grade" means the slope in percentage terms.

*Grading permit* means a permit issued by the county as required by this chapter and chapter 70, U.B.C. 1985 edition, or the latest adopted edition of the New Mexico Building Code.

*Grading plan* means the plan that describes existing contours and the finish grade for the site upon completion of all construction operations.

*Greenhouse* means a building or structure constructed chiefly of glass, plastic or translucent material, cloth or lath which is devoted to the protection or cultivation of flowers or other tender plants.

*Gross acre* means an area measurement of a total site or parcel in units of 43,560 square feet prior to dedication of streets, easements, open space, utility and institutional sites or other reservations of nondevelopable land.

*Ground cover* means any landscaping material other than permanent hard surfaces (i.e., sidewalks, driveways, structures) which covers the natural earth. The definition includes living matter (plants) and nonliving materials (rock outcroppings).

*Group home* means any congregate residence, maternity shelter, or building for persons which provides and whose primary purpose is to provide room and board to the residents within the facility, and to provide either directly or through contract services at least one of the following: programmatic services, assistance with the activities of daily living in accordance with the program directive, or general supervision of up to eight individuals who have difficulty living independently or managing their own affairs, or who are handicapped within the meaning of 42 U.S.C. § 3602 (h)(1) of the Fair Housing Amendments Act (1988). Group home does not include facilities for persons currently in custody of or recently released by correctional authorities that are designed to offer an alternative to imprisonment and/or to facilitate ex-offender reintegration into community life, nor does it include facilities for persons who require such services by reason of the effects of current alcohol or drug abuse. Group home includes facilities for recovering alcohol or drug abusers who require group home services.

*Guest* means a social visitor or any person hiring or occupying a room for living or sleeping purposes.

*Guesthouse* means a dwelling unit within an accessory building for use by guests of the occupant of the main building; it does not mean a dwelling that is rented or otherwise used as a separate main building.

*Guestroom* means a room, having no kitchen facilities, for the occupation by one or more guests.

*Hedge* means a plant or series of plants or other landscape material so arranged as to form a physical barrier or enclosure.

*Height of structure* means the vertical distance between the highest point of any part of the structure and the natural grade or finish cut grade directly below that point, whichever is greater. If a structure is placed on fill, the depth of the fill is included in the height of the structure. If the natural grade is lowered in a cut, the depth of the cut is included in the height of the structure.

*Home-aged, convalescent, nursing, physically handicapped.* See "convalescent home."

*Home business* means a home occupation that employs more than one nonfamily member.

*Home occupation* means a business, profession or service conducted and/or operated in a residential zoning district and is clearly incidental and secondary to the dwelling purpose and does not change the character thereof.

*Hospital* means an acute care, short-term general hospital.

*Hospital, animal.* See "veterinary service facility."

*Hotel* means a building or group of integrated structures in which there are six or more guestrooms where lodgings for transients are provided for compensation, and where no provision is made for cooking in any individual room or suite.

*Housing* means residences of any kind as further described in this chapter.

*Impact reports* means studies to identify the potential adverse effects of the proposed development on public infrastructure and land as well as adjoining private properties. Reports required, see section 16-571, may include: traffic generation report; stormwater drainage report; utility capacity analysis report; and soils report.

*Improvement* means an addition made on property and intended to enhance its value, utility or beauty, or to adapt it to new or further uses.

*Industrial use* means the manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character or appearance thereof, and including storage, warehousing and wholesaling.

*Inn* means an owner-occupied building that contains up to 15 units, plus the owner's dwelling unit. Any or all of the units may contain a kitchen. Meal service by the owner is limited to breakfast.

*Inoperable vehicle* means any motor vehicle or vital component parts thereof which are either:

- (1) Unusable or inoperable because of lack of, or defects in vital component parts;
- (2) Unusable or inoperable because of damage from collision, deterioration, alteration or other factors;
- (3) Beyond repair; or
- (4) Without a current vehicle registration.

For the purposes of this definition, the term "vital component parts" shall mean those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle including, but not limited to, the motor, drive train and wheels. Also see section 16-281.

*Institution* means a facility for the treatment of alcoholism, drug addiction, or mental or emotional problems.



*Interdepartmental review committee* means a technical advisory committee composed of the county engineer, traffic engineer, utilities manager, parks division manager, police chief, fire chief and the community development director, or as appointed by the county manager. The purpose of the committee is to review development applications and to advise the planning and zoning commission, other boards and commissions and the county council.

*Junk* means used machinery, electronic/electrical components, scrap iron, steel or other ferrous and nonferrous metals, tools, implements or portions thereof, glass, plastic, cordage, building materials, or other waste that has been discontinued from its original use and may be used again in its present form or in a new form.

*Junkyard* and *salvage yard* mean an open area where junk, including dismantled or wrecked automobiles, is bought, sold, exchanged, stored, baled, packed, disassembled or handled. A junkyard includes an automobile wrecking yard.

*Laboratory, research* means a facility for scientific laboratory research in technology-intensive fields. Examples include biotechnology, pharmaceuticals, genetics, plastics, polymers, resins, coatings, fibers, fabrics, films, heat transfer, and radiation research facilities.

*Laboratory, support* means a facility for scientific laboratory analysis of natural resources, medical resources, and manufactured materials. The scientific analysis is generally performed for an outside customer, to support the work of that customer. This category includes environmental laboratories for the analysis of air, water, and soil; medical or veterinary laboratories for the analysis of blood, tissue, or other human medical or animal products. Forensic laboratories for analysis of evidence in support of law enforcement agencies would also be included in this category.

*Landscape plan, conceptual* means a plan graphically showing the landscaping of property and including the areas to be landscaped and types of landscaping materials.

*Landscape plan, final* means a plan graphically showing the landscaping of property, including the areas to be landscaped, types of landscaping materials, irrigation, the final design of all landscaping areas, and long-term maintenance.

*Landscaping* means the planting and maintenance of various forms of vegetation and/or the use of architectural materials to enhance aesthetically and complement structures and the sites on which they are located.

*Legal holiday* means a holiday granted to regular employees of the county pursuant to the personnel rules and regulations of the county.

*Loft.* See "dwelling, loft."

*Lot* means a parcel of land, the description of which is of record.

*Lot area* means the area of a horizontal plane bounded by a vertical projection of the property lines of a lot.

*Lot, corner*, means a lot located at the intersection or interception of two or more streets at an angle of not more than 135 degrees. If the included angle is greater than 135 degrees, the lot is an interior lot.

*Lot coverage* means the percentage of the lot area covered by structures, including accessory buildings, main buildings and detached buildings as defined elsewhere in this chapter. Lot coverage includes all aboveground structures.

*Lot, double frontage or through*, means any lot having frontage on two parallel or approximately parallel streets.

*Lot, front*, means that part of the lot which abuts the street, or that part which is designated the front of a corner lot, reverse corner lot, double frontage lot, or a lot with three or more sides abutting a street.

*Lot, interior*, means any lot other than a corner lot, a reverse corner lot or a double frontage lot.

*Lot line* means any line bounding a lot.

*Lot line adjustment* means a replat of the recorded lot lines of two adjacent lots with no additional lots created.

*Lot line, front*, means the property line in the front yard.

*Lot line, rear*, means the lot line which is opposite and most distant from the front lot line, or in the case of an irregular lot, a line a minimum of ten feet in length within the lot and farthest removed from the front lot line, and at or near right angles to the line comprising the depth of such lot.

*Lot line, side*, means those lot lines of a lot which are not the front or rear lot lines.

*Lot, nonconforming*, means a lot which does not conform to the provisions of this chapter.

*Lot, rear*, means that part of a lot opposite the front of the lot.

*Lot, reverse corner*, means a corner lot, the rear yard of which abuts a side yard of another lot.

*Lot split* means the subdivision of one recorded lot into two lots.

*Luminance* means the brightness of an object expressed in terms of foot lamberts, determined from a point five feet above grade on another premises or the public right-of-way, but no closer than 20 horizontal feet from the object measured.

*Mobile home* means a portable housing structure larger than 40 feet in body length, eight feet in width or 11 feet overall height, designed for and occupied by no more than one family for living and sleeping purposes. It does not include structures built to the standards of the New Mexico Building Code and National Manufactured Home Construction and Safety Standards Act.

*Mobile home development* means a parcel of land designed and/or intended for the placement of mobile homes and accessory structures on mobile home sites that can be owned in fee simple, as part of a condominium, a cooperative or a land lease rental community.

*Mobile home park* means a parcel of land under single ownership on which two or more mobile homes are located. It includes land-lease rental communities where individual lots are rented, but not owned. It also includes limited equity cooperatives but prohibits condominiums.

*Mobile home site* means the portion of a mobile home park development that is designated as the location for a mobile home and accessory structures for the exclusive use of the occupant of the mobile home.

*Mobile home subdivision* means a subdivision designed and/or intended for the sale of individual lots for siting mobile homes. It can also include a condominium.

*Motel* means a building or group of buildings containing sleeping units or guestrooms, where lodging with or without provision of meals is provided for compensation. Motels are designed to temporarily accommodate the automobile tourist or transient with parking facilities located near each unit or room. The term includes tourist, motor and automobile courts and motor lodges.

*Motor freight terminal* means a building or area in which freight brought by motor truck is assembled or stored for local delivery or intrastate and interstate shipment by motor truck.

*Multiple tenant building* means a single structure housing two or more retail, office, commercial or industrial uses.

*Nonconforming use* means a use of a building or land, existing on the date of adoption of this chapter which does not conform to the uses permitted in the district in which it is located.

*Noxious matter* means material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

*Official zoning map* means the map adopted by the county council in conjunction with this chapter showing the location of the various zoning districts within the county, and may be amended from time to time.

*Off-site* means any place not within the boundary of the property to be developed, subdivided or improved, whether or not in the ownership of the developer or subdivider.

*One-hundred year flood or 100-year frequency rainstorm* means:

- (1) One-hundred year flood means the flood having a one percent chance of being equaled or exceeded in any given year and as defined elsewhere in this chapter; and
- (2) One-hundred year frequency rainstorm means that total accumulation of 5.24 inches of rain at the end of a one-hour period.

*Open space, private*, means that part of a lot, including courts or yards, which is open and unobstructed from its lower level to the sky and is accessible to and usable by all persons occupying a dwelling unit on the lot.

*Open sun screen* means a latticed or louvered assemblage, open on at least two sides, used for partial shade, providing no weather protection and not influencing ventilation or the amount of impervious cover of a lot.

*Overlay district* means a set of zoning requirements that are described in the text of this chapter that are mapped, and are imposed in addition to those of the underlying district. Development within the overlay districts must conform to the requirements of both zoning districts or to the more restrictive of the two. The wilderness (W-1 and W-2), special plan (SP), and the historic (H) districts are overlay districts. Also see sections 16-533, 16-534 and 16-577.

*Owner* means any person, group of persons, firms, corporations, public agency or any other legal entity having legal chapter or equitable interest to the land sought to be subdivided or otherwise subject to this chapter. Also see "Agent."

*Parking area, private*, means an open area, other than a street, used for the parking of motor vehicles and restricted from general public use.

*Parking area, public*, means an area other than a private parking area or street used for the parking of motor vehicles and available for public use either free or for remuneration.

*Parking facility* means any space on the streets or off the streets used for the purpose of parking motor vehicles, including buildings erected above or below the surface of the ground.

*Parking, off-street*, means the area used for public or private parking required by this chapter for temporary vehicular parking.

*Parking space, automobile*, means space exclusive of driveways, ramps, columns, loading areas, office or work areas within a building, or an open parking area, for the parking of one automobile.

*Park land* means public open space that is designed to serve public needs for recreation, and areas that serve to satisfy public needs for visual and/or psychologically pleasing spaces.

*Park roadway* means a private road within a mobile home park, providing access to the mobile home sites from the street.

*Parkways* means the public right-of-way of a dedicated street located on either side of the actual street roadway improvements (curb, gutter and pavement). Parkway areas may or may not contain sidewalks and/or utilities.

*Patio* means roofed or unroofed space on a lot; if roofed, with at least 50 percent of the side surface unscreened or unenclosed with a solid material.

*Pedestrian walkway* means an accessway generally located between lots for pedestrian use and either publicly or privately owned, which may or may not be improved.

*Percent of slope* means the relation of the vertical rise from or to the contour line at horizontal intervals of not more than 50 feet and calculated as follows:

S	=	$H - L / D \times 100$
H	=	The highest elevation of the portion of the tract measured.
L	=	The lowest elevation on the portion of the tract measured.
D	=	The horizontal distance between H and L.

Percent of slope is used to measure grade.

*Permitted use* means the specific, primary use of a lot. A lot may be put to more than one use at a time.

*Pet training or breeding or kennels, commercial* means the boarding, breeding, raising, grooming or training of two or more dogs, cats, or other household pets of any age whether or not owned by the owner or occupant of the premises.

*Planning and zoning commission* means the planning and zoning commission of the county and as further described in this chapter and in article IX of chapter 8.

*Plat* means a map, drawing or chart on which the subdivider's plan of the subdivision is presented and which he submits for approval, and intends in final form to record. The county requires the submittal of three types of plats in any subdivision proposal. These are defined as follows:

- (1) *Sketch plan*: a plat showing the initial concept of the proposed subdivision including a layout of lots, streets, open areas, etc.
- (2) *Preliminary plat*: a much more detailed plat than the sketch plan, representing the final design of the subdivision. Detailed construction plans for all improvements associated with the subdivision are submitted subsequent to approval of the preliminary plat.

- (3) *Final plat*: a plat representing the final design which incorporates all improvement and legal requirements required by the planning and zoning commission at the preliminary plat stage. Once approved, this plat is the plat which will be filed and recorded in the county clerk's office.

*Porch or deck* means an open platform above ground level typically attached to the wall or foundation of a building or structure and primarily supported in some structural manner from the ground; it may be roofed or unroofed.

*Professional engineer* means an engineer registered by the state board of registered engineers and surveyors.

*Public improvement* means any drainage ditch, roadway, parkway, sidewalk, street, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the county may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which county responsibility is established.

*Public right-of-way* means the total area of land deeded, reserved by plat or otherwise acquired or occupied, used or intended to be used by the county or state, primarily for the public movement of people, goods and vehicles. Public right-of-way may be used for other public purposes pursuant to this chapter.

*Radio and TV towers and antennae* means a structure situated on a non-residential site that is intended for transmitting or receiving television, radio or telephone communications, excluding those used exclusively for dispatch communications.

*Ramp* means a sloping roadway or passage used to join two different levels of streets, structures or buildings, or a driveway leading to parking aisles.

*Real property* means land and generally whatever is erected or growing upon or affixed to land.

*Recreation equipment* means equipment whose primary function or design is for recreational purposes, whether originally so designed or subsequently modified, and is not capable of being self-propelled on land, and shall include the following or similar types of equipment: boats, boat trailers, camper when dismounted from a truck bed or chassis, horse trailer, houseboats, house trailers, rafts, tent trailers, travel trailers and utility trailers when converted to recreational purposes.

*Recreation facility* means a building or place that provides for an activity of leisure, such as swimming pools, skating rinks, ski-lifts, tennis courts and trails.

*Recreational vehicle* means a vehicle which is composed of a chassis, or a frame with wheels, which either has its own motive power or is drawn by another vehicle, and a camping body primarily designed or converted for use as temporary living quarters for recreational, camping or travel activities.

*Recycling station* means a use within a permissible zoning district where recyclable solid waste materials, including aluminum, glass, paper, metal and similar materials are purchased or procured and temporarily stored and occupying an area not greater than 1,000 square feet. Recycling stations shall be operated and maintained in a safe, healthful and convenient manner and shall not be operated so as to become offensive, noxious, hurtful, injurious or dangerous to persons or adjoining properties. Recycling stations should not be directly accessed from the public right-of-way and should be situated and designed so as not to create traffic and/or pedestrian circulation problems on existing properties.

*Replat* means the relocation or realignment of lot lines in a recorded subdivision where two or more original lots are involved, and where no additional lots are created.

*Research and development* means uses for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of the investigations with the objective of creating end products; and a research and development use may include pilot plant operations.

*Residence* means a building used, designed or intended to be used as a home or dwelling, by one or more families or lodgers. When located in a mobile home park, mobile home subdivision or mobile home development, a mobile home is a residence.

*Residential zone* means any zoning district in which residential uses are allowed, except that the downtown district-neighborhood center and downtown district—Town center overlay zones and the mixed-use zone are not residential zoning districts.

*Restaurant, drive-in or takeout* means a business establishment that serves prepared food or beverages primarily for the consumption by customers within motor vehicles either on or off the premises.

*Restaurant, enclosed*, means a business establishment that serves prepared food or beverages primarily to persons seated within the building. This includes businesses which may provide an area for food consumption outdoors in addition to indoor dining.

*Retail* means the sale of goods to the ultimate consumer for direct consumption and not for resale.

*Reversion to acreage* means the vacation of all or a portion of an originally recorded subdivision, so that the vacated area becomes a single parcel of land.

*Right-of-way*. See "public right-of-way."

*Room* means an unsubdivided portion of the interior of a building; it does not mean a bathroom, closet, hallway or service porch.

*Rubbish* means waste or rejected material: anything worthless or valueless in its present form; trash.

*Ruins* means building material which has already been used, or buildings in a state of disrepair and falling down.

*Runoff* means the water from natural precipitation which flows over the surface of the land and does not percolate into the soil.

*Sanitariums*. See "institution."

*Satellite dish antenna* means a device incorporating a reflective surface that is solid, open mesh, or bar configured, and is in the shape of a shallow dish, cone, horn or cornucopia and is greater than 24 inches in diameter. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based units. This definition includes, but is not limited to, satellite earth stations, television-reception-only satellite dish antennas (TVROs) and satellite microwave antennas.

*Schools, private or parochial*, means a school, academy or institution, which conducts academic instruction at kindergarten, elementary, secondary or collegiate levels; it does not mean a commercial or trade school.

*Schools, public*, means schools under the jurisdiction of the county school board or, in the case of a post high school institution, under the jurisdiction of a board of regents established by the state.

*Schools, trade or commercial*, means private schools offering preponderant instruction in the technical, commercial, or trade skills, such as real estate schools, business colleges, electronics schools, automotive and aircraft technician schools, and similar commercial establishments, and which are operated for a profit.

*Self-service storage facility* means any real property designed and used for the purpose of renting or leasing individual storage spaces to tenants who are to have access to such spaces for the purpose of storing and removing personal property.

*Senior citizen multiple-family residential development* means a residential development providing dwelling units specifically designed for the need of ambulatory elderly persons, with residents of such development being a minimum of 60 years of age (except that in the case of married couples only one person needs to be 60 years of age) and with such developments consisting of apartments or condominiums, or a combination of both dwelling types, but consisting of a minimum of 30 dwelling units within the project.

*Setback* means the least horizontal distance between a lot line and a building or structure exclusive of projections.

*Setback line* means a line parallel to or concentric with the lot line at the setback.

*Setback, minimum structural*, means the distance from the lot line to any setback or the main building setback, as required by this chapter.

*Sidewalk* means a publicly owned pedestrian way with permanent surfacing.

*Sign* means:

- (1) Any written, printed or symbolic device capable of visual communication or attraction, including any announcement, declaration, demonstration, display, illustration, insignia, structure or symbol, or architectural feature which serves no other purpose than communication, used to advertise or promote the interest of any person; or
- (2) Any official notice issued by any court or public body or officer, or directional, warning or information signs or structures required by or authorized by law or by federal, state or county authority.

*Sign area* means the square foot area of all the sign facing on which the advertising message is located, including only that portion of the supporting structure or trim which carries any wording, symbols or pictures. In the case of wall signs, the sign area is the area of the sign structure containing the advertising message; in the case of cutout or painted signs, the area of a simple geometric figure completely enclosing the letters, message or symbols is the sign area.

*Sign, canopy*, means any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy.

*Sign, electric*, means an advertising structure lighted by electricity.

*Sign, flashing*, means any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use.

*Sign, freestanding*, means a permanent sign supported on a pole, poles or similar structure, placed into the ground and detached from a building, and with air space between the sign structure and the ground.

*Sign, ground-based*, means any sign supported by a solid structure of stone, metal, masonry, wood, or other such material, anchored in the ground and not attached to any building, and with no air space between the sign structure and the ground.

*Sign, hanging*, means a sign which is located under a portal. Also see "Sign, wall."

*Sign, incidental*, means a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone" and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

*Sign, information*, means a nonadvertising sign designed and worded to inform about a specific facility on a site.

*Sign, marquee*, means a sign designed for changeable advertising copy. Also see "Sign, wall."

*Sign, multiface*, means a sign having more than one advertising surface, including spheres or pyramids.

*Sign, portable*, means a ground-based sign designed to be moved from place to place, and having no permanent attachment to the ground on which it stands.

*Sign, portal*, means a sign affixed to a portal and which does not extend above the roofline. Also see "Sign, wall."

*Sign, projecting*, means any sign affixed or attached to, and supported solely by a building, wall or other structure attached to the building and extending more than 12 inches beyond the building wall or structure.

*Sign, residential*, means any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such services at such location conforms with all requirements of the zoning ordinance.

*Sign, roof*, means any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extended vertically above the highest portion of the roof.

*Sign, roof integral*, means any sign erected or constructed as an integral or essentially integral part of normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

*Sign structure* means a structure supporting a sign except for those signs which are official notices issued by any court or public body or officer, notices posted by any public officer in performance of a public duty, or by any person in giving legal notice, or directional, warning or information required by or authorized by law or by federal, state or county authority.

*Sign, suspended*, means a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

*Sign, temporary*, means any sign, banner, pennant, valence or advertising displayed for a limited period of time.

*Sign, wall*, means a sign attached, hanging or painted on the wall, canopy, portal or marquee of a structure.



*Site plan* means a graphic depiction showing the development of commercial property on an individual lot with or without a special plan (SP) district. The site plan includes, but is not limited to, the location and footprint of structures, building height and exterior facades, architectural design standards, location and dimension of offstreet parking and traffic circulation, method of exterior lighting, landscape treatment, location and size of signs, easements, drainage, utilities, and other improvements. In addition, the special plan (SP) district site plan defines land uses, gross floor area, and site development standards and such other factors as may address the site plan approval criteria in section 16-152A.

*Slope, building site*, means the difference between the highest natural elevation on the building footprint and the lowest natural elevation of the building footprint divided by 100.

*Slope, parcel*, means that for any and all 100-foot horizontal distances on a parcel that can be legally subdivided, the maximum difference between the natural elevations at each end of the 100-foot horizontal difference are divided by 100.

*Solar energy collection system, active*, means a mechanical system for heating or cooling a structure by collecting, storing and transporting solar energy.

*Solar energy collection system, passive*, means a system that employs siting and orientation, structural materials and landscaping to take advantage of solar energy for structural heating.

*Souvenir shop* means a store that primarily sells souvenirs, memorabilia, and other items relating to a particular topic or theme. Such as coffee mugs, stuffed animals, t-shirts, postcards, and handmade collections.

*Special use* means a use which has been determined to be compatible with the purposes of the district, but which has one or more characteristics that could make it incompatible with other uses in the district; and as further described by this chapter.

*Special use permit* means a permit for a use classified as a special use, as detailed elsewhere in this chapter.

*Spot zoning* means rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.

*Storage* means an area or space, either indoors or outdoors, where something is kept, housed or located for future use.

*Storage, contractor's yard*, means an area where heavy equipment, materials, machinery, aggregates, and other objects used for the development of land or structures are stored.

*Storm drainage plan* means a detailed plan showing the location and proposed topography of streets, lots and other areas within a development, along with any proposed storm sewer facilities and easements for surface drainage, intended to satisfy the storm drainage performance standards of this chapter. It is further meant to include any drainage calculations requested by the county engineer.

*Story* means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or above. If the finished floor level directly above a usable or unused underfloor space is more than six feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such usable or unused underfloor space shall be considered as a story.

*Stream* means a low point on the natural topography where runoff collects and stormwaters flow on a periodic basis or a continuously running waterway.

*Street* means a strip of land or way subject to vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property.

*Street, arterial*, means a street which is or will, because of its design, location, or intensity of use with reference to other streets and other sources of traffic, be used primarily for larger volumes of traffic.

*Street, centerline*, means the center of a street or right-of-way as established by official surveys and shall normally be the midpoint of a street cross section.

*Street frontage* means the distance for which a lot line of a lot adjoins a public street, from one lot line intersecting such street to the furthest distant lot line intersecting the same street.

*Street, private*, means a street as defined elsewhere in this chapter but differing in that it is not accepted by the county as a public improvement.

*Street, public*, means a street as defined elsewhere in this chapter.

*Strip zoning* means the rezoning of a parcel of land along a street to allow uses different from those along the same street.

*Structural alterations* means a change in the location of the outside walls or roof of a structure.

*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.

*Structure, nonconforming*, means a structure lawfully existing on the date of adoption of this chapter, which was designed, erected or structurally altered for a use which is not a permitted use in the district in which it is located, or which is not in compliance with the site development requirements of the district in which it is located. A nonconforming structure does not mean a structure that was developed between January 31, 1977, and January 31, 1991, in violation of this chapter.

*Structure, original*, means a structure as it existed at the date of adoption of this chapter.

*Subdivider* means an owner, or an owner's authorized agent, who undertakes the subdivision of land as set forth in this chapter.

*Subdivision* means the division of any tract of land into two or more lots as provided in this chapter. This also includes any two-lot subdivision in the P-L (public lands) zoning district.

*Summary plat* means a plat which subdivides a lot into no more than two lots in any zoning district or for adjustment of a lot line, consolidation of no more than two lots, or a technical surveying correction.

*Summary procedure* means the process whereby the community development director may review and act upon a summary plat.

*Tap room* means a room in which alcoholic drinks, especially beer, are available on tap.

*Tasting room* means a part of a winery or brewery, where guests may sample the winery or brewery's product.

*Temporary use* means a use established for a fixed period of time, with the intent to discontinue such use upon the expiration of a period of time as defined in Section 16-278, that does not involve the construction or alteration of any permanent structure.

*Tenant* means any person who occupies any land or building who is not the owner but is granted the right of use by the owner.

*Traffic engineer* means the county employee responsible for the administration and enforcement of county traffic-control regulations as set forth in this chapter.

*Trailer* means any vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle.

*Trailer sales lot* means an automobile and trailer sales lot.

*Use* means the purpose to which land is put, a building or structure is put, designed or intended, or for which land and a building or structure is or may be occupied or maintained.

*Use index* means the use index included in this County of Los Alamos Development Code, setting out for each zoning district permitted uses, uses for which a special use permit is required, accessory uses, and uses that are not permitted.

*Vacation* means:

- (1) Reversion of all or a portion of a recorded subdivision to a single lot; or
- (2) The elimination of an easement or right-of-way in a part of a recorded subdivision.

*Veterinary service facility* means an enclosed structure in which animals are given medical or surgical treatment or temporary housing as an accessory use to the veterinary service facility.

*Waiver* means an adjustment of the application of one or more dimensional requirements, parking regulations, or design standards contained in this chapter for a particular piece of property. Waivers shall not apply to regulations controlling density or land use.

*Walkway* means a cleared way for pedestrians which may or may not be paved.

*Wall* means a vertical structure that separates properties, portions of properties or portions of a building.

*Warehousing* means the use of a building with more than 500 square feet of storage space for the storage of goods of any type.

*Wholesaling* means the selling of any type of goods for purpose of resale.

*Wreckage* means broken, disrupted, disordered mechanical or automotive parts, machinery or vehicles.

*Yard* means any open space, other than a court, on the same lot with a building, which space is open from the ground to the sky, except for projections and accessory buildings.

*Yard, front*, means an open area extending across the full width of the lot, the depth of which is measured in the least horizontal distance from the front lot line to the main building setback.

*Yard, rear*, means an open area extending across the full width of the lot, the depth of which is measured in the least horizontal distance from the rear lot line to the main building setback.

*Yard, required*, means the portions of a lot lying between the lot lines and the minimum structural setback lines.

*Yard, side*, means an open area extending along the length of the lot between the front and rear yard setback, the width of which is measured in the least horizontal distance from the side lot line to the main building setback. On a reverse corner lot, the side yard abutting the street extends to the rear lot line.

*Zoning* means the laws and regulations governing the use of specific real estate for a specific purpose, including the types of activities that can be accommodated on a given piece of land, the amount of space devoted to those activities and the ways that buildings may be placed and shaped in conformance with section 16-6.

**Section 2.** Article VII, Section 277 of Chapter 16 of the of the County Code of Ordinances is amended with the following:

No property in a residential district shall be used for a home occupation unless the home occupation meets the following standards and conditions:

(1) In the R-A district:

- a. The home occupation or profession shall be carried on within the main building, an enclosed garage or other accessory building, or any combination of these, except agricultural, horticultural or animal husbandry uses may be carried on the outside of a building.
- b. Not more than 25 percent of the area of the main dwelling may be used for home occupations. There is no limitation to the area of the lot or accessory buildings that may be used for agricultural, horticultural or animal husbandry home occupations; the total area used in other home occupations shall not exceed 25 percent of the area of all buildings on the lot. Any area of the main dwelling used in home occupation shall be included in determining the total area so used.
- c. Retail sales on the premises shall be permitted, but shall be restricted to not more than ten percent of the dwelling unit floor area for storage and display of goods to be sold.
- d. No more than one person outside the family shall be employed in a home occupation on the lot.
- e. There shall be no visible exterior display or storage of materials used in the home occupation, except that materials used in agricultural, horticultural and animal husbandry occupations may be stored outside of a building or in such a way as to be visible from off the lot. Other than the exception in this subsection (1)e., there shall be no exterior indication of the home occupation or variation from the residential character of the main building or lot, except that a two-square foot sign designating the permitted home occupation may be located on the lot. Also see [section 16-404](#) for sign requirements.
- f. There shall be no noise, vibrations, smoke, dust, odor, heat or glare detectable beyond the boundaries of the lot on which the home occupation is located, so as to constitute a nuisance.
- g. The home occupation shall not create hazardous waste; or create pedestrian, automobile or truck traffic, or parking congestion significantly in excess of the normal amount found in a residential district.

h. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in the electrical line voltages off the premises.

i. The use shall not involve the use of signs or structures other than those permitted in the district.

j. The use must be clearly incidental and secondary to the primary use of the lot.

k. The use is the same as or similar to, but not restricted to, the following:

1. Art, craft or technical work;
2. Assembly and mechanical repair, including instruments, time pieces, sporting equipment and household appliances where articles are hand portable;
3. Repair of electric motors less than five horsepower in rated capacity; and, repairs of mechanical and electrical components of automobiles which have been removed from the vehicle and brought to the premises;
4. Office for the conduct of a profession, trade or service;
5. Sewing and alteration of garments and home furnishings;
6. Music lessons, dance lessons and tutoring;
7. Conduct of a business related to a sport or hobby;
8. Food cooperative;
9. Testing, tune-up and repair of internal combustion engines less or equal to ten horsepower, subject to subsection (1)f of this section;
10. Agricultural, horticultural and animal husbandry.

l. The following uses are not allowed:

1. Contractor's yard;
2. Salvage yard or junkyard;
3. Automobile repair or body and paint shop;

4. Cannabis manufacturing;

5. Cannabis retail, unless as authorized by the State as licensed producer pursuant to the Lynn and Erin Compassionate Use Act;

6. Cannabis cultivation, unless as authorized by the State as licensed producer pursuant to the Lynn and Erin Compassionate Use Act.

(2) In the R-E, R-1-12, R-1-10, R-1-8, R-1-5, R-M, R-3-L, R-3-H, R-4, R-5, R-6 and P-D districts:

a. The home occupation or profession shall be carried on within the main building, an enclosed garage or other accessory building, or any combination of these.

- b. In the R-E district, an area no larger than 25 percent of the combined dwelling unit area and areas of all accessory buildings may be used for home occupations, but not more than 25 percent of the area of the main dwelling may be so used. In the remaining districts, an area no larger than 25 percent of the dwelling unit area may be used for home occupations, without regard as to how the area is apportioned between the dwelling unit and any accessory buildings.
- c. Retail sales on the premises shall be permitted, but not more than ten percent of the floor area of the dwelling unit shall be used for storage and display of goods to be sold.
- d. No more than one person outside the family shall be employed in a home occupation on the premises.
- e. There shall be no visible exterior display or storage of materials used in the home occupation, and no other exterior indication of the home occupation or variation from the residential character of the main building or lot, except that an unlighted, two-square foot sign designating the permitted home occupation may be located on the lot. Also see [section 16-404](#) for sign requirements.
- f. There shall be no noise, vibration, smoke, dust, odor, heat or glare detectable beyond the boundaries of the lot on which the home occupation is located, so as to constitute a nuisance.
- g. The home occupation shall not create hazardous waste; or create pedestrian, automobile or truck traffic, or parking congestion significantly in excess of the normal amount found in the district.
- h. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in electrical line voltages off the premises.
- i. The use shall not involve the use of signs or structures other than those permitted in the district.
- j. Such use must be clearly incidental and secondary to the primary use of the lot.
- k. The use is the same as or similar to, but not limited to, the following:
1. Art, craft or technical work;
  2. Assembly or mechanical repair, including instruments, time pieces, sporting equipment and household appliances where articles are hand portable;
  3. Repair of electric motors less than five horsepower in rated capacity; and repairs of mechanical and electrical components of automobiles which have been removed from the vehicle and brought to the premises;
  4. Office for the conduct of a profession, trade or service;
  5. Sewing and alteration of garments and home furnishings;
  6. Music lessons, dance lessons and tutoring;
  7. Conduct of a business related to a sport or hobby;

8. Testing, tune-up and minor repair of internal combustion engines less or equal to ten horsepower, subject to subsection (2)f of this section.

I. The following uses are not allowed:

1. Contractor's yard;
2. Salvage yard or junkyard;
3. Automobile repair or body and paint shop;
4. Cannabis manufacturing;

5. Cannabis retail, unless as authorized by the State as licensed producer pursuant to the Lynn and Erin Compassionate Use Act;

6. Cannabis cultivation, unless as authorized by the State as licensed producer pursuant to the Lynn and Erin Compassionate Use Act.

**Section 3.** Article VII, Section 288 of Chapter 16 of the of the County Code of Ordinances is removed in its entirety, and replaced with the following:

Sec. 16-288 - Cannabis retail.

(a) This use must comply with all applicable local and State regulations and licensing.

(b) No cannabis retail establishment shall be licensed if located within 300 feet of a school or daycare center.

(c) No cannabis retail establishment shall be licensed if within 300 feet of another cannabis retail establishment.

(d) It shall be unlawful for any cannabis retail establishment licensed pursuant to this development code to remain open to the public at any time other than between the hours of 7:00 a.m. and 12:00 a.m. daily.

(e) Cannabis retail establishments shall not be permitted to have designated indoor cannabis vaping or outdoor cannabis vaping and smoking areas.

**Section 4.** Article VII of Chapter 16 of the County Code of Ordinances is amended by adding a new Section 289, as follows:

Sec. 16-289. – Use index table.

#### Use Index

Name	R - A	R - E	R - 1	R - M	R - 3- L	R - 3- H	R- 3- H- 4 0	R - 4	R - 5	R - 6	*P -D	C - 1	C - 2	C - 3	R& D	M - 1	M - 2	W - 1	W - 2	P - O	DT - CP O	DT- TC O	DT - NC O	DT- NG O	M U
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[illegible]



Churches, worship places	S	S	S	S	S	S	S					S	S	S	P	S					S	S	P	P	P	P
Cemeteries															P				P	P						
Clubs; social, fraternal and recreational	S	S	S	S	S	S	S								P	S	S					P	P	P	S	P
Funeral homes, mortuaries													P	P	P								P	P	S	P
Crematories													S	S	S											
Group homes	P	P	P	P	P	P	P	P	P	P	P												P	P	P	P
Hospitals; institutions														S	S								P			
Heliports, public or hospitals														S	S			S					S			
Museums														S	P							P	P	P	P	S
Nursing or rest homes						S	P						S	S	S								P	P	S	P
Public buildings													P	P	P	P					P	P	P	P	P	P
Schools; business or vocational													S	S	P							S	P	P	S	P
Schools, private or parochial	S	S	S	S	S	S			S	S	S	S	S	P	P	P	A					P	S	P	P	S
Commercial																										
Amusement centers, indoor													S	P	P							S	P	P		
Amusement parks													S	S												
Firewood, sales and storage													A	A	P		P	P								
Firewood, sales																							A	A		A
Automobile, boat, rec. vehicles,													S	S	S									P		





Radio and TV, Studios/stations													P	P	S					P	P	S	P	P	P	P
Radio and TV, towers/antennas															S		S	S		S	S	S	S	S	S	S
Recycling stations						S							S	S	S		S	S				P	S	S	S	S
Satellite dish antennas	A	A	A	A	A	A	A	A	A	A	A	A	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Self-service storage facilities													S	S	P		P	P						S		
Terminals, bus														S	P							S	P	P		S
Vehicle storage yards														S	S		S	S								
Veterinary clinics													S	S	P		P	P					P	P		P
<b>Recreational</b>																										
Art galleries													P	P	P	A						A	P	P	P	P
Bowling alleys														P	P							S	P	P		P
Campgrounds																				P						S
Health clubs, gymnasiums													P	P	P	S	S	S			S		P	P	P	P
Parks and playgrounds, public and private	P	P	P	P	P	A	A	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Riding academies, arenas and/or stables	A														S					S						
Recreation facilities														S	S					S		P	P	P	P	P
Swimming pools, commercial or clubs	S	S	S	S	S	S	S	S	S	S				S	S					S		P	P	P	P	P
Theaters, (enclosed)													P	P	P							S	P	P	P	P
Theaters, drive-in													P	P	P											

Research																									
Animal experimental research institutes														S	S										
Laboratories, research and support														S	S	P	P	P			S		S	S	P
Research and development, offices and laboratories	A	A	A	A	A	A	A	A	A	A			A	A	P	P	P	P			S		S	S	P
Research or professional offices (no laboratories)	A	A	A	A	A	A	A	A	A	A			A	P	P	P	P	P			P		P	P	P
Industrial																									
Acid mfg. and storage																	S	S							
Asphalt and concrete batch plants																		S							
Assembly, miscellaneous													S	S	S	S	P	P						S	
Food processing facilities																	P	P						S	
Automobile and motorcycle, repairing, body work and painting														S	P		P								
Blacksmith shop and harness repair														P			P	P							
Borrow pits																	S	S							
Brick, tile cement or block, products and mfg.																	S	S							
Cabinet and carpenter shops														P			P	P						S	
Cesspool services														A			P	P							
Cold storage													A	A			P	P						A	





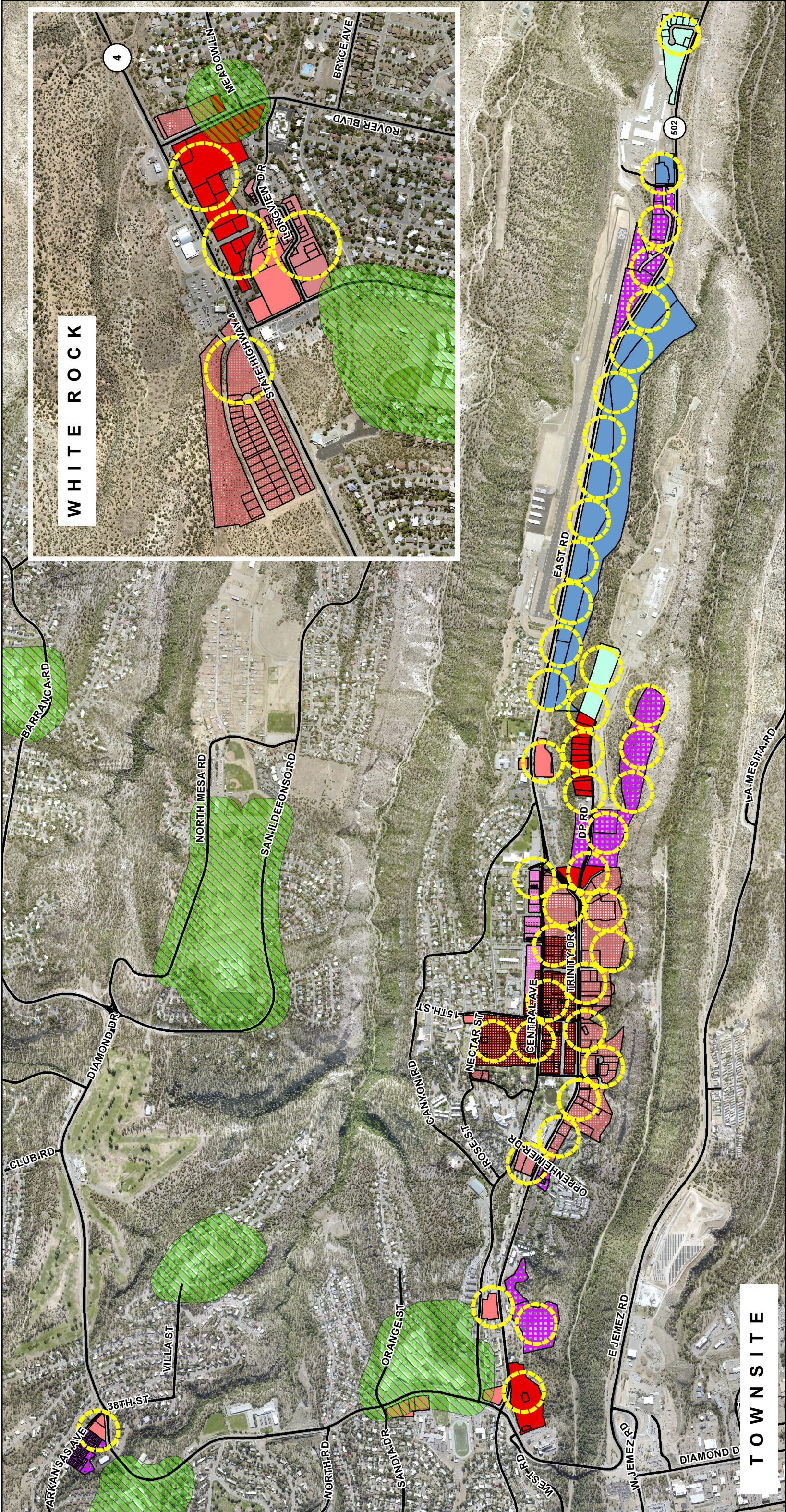
**Council Chair**

**ATTEST: (Seal)**

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





# CANNABIS RETAIL

A retail sales establishment licensed by the State to sell cannabis for recreational or medical consumption.

- PROPOSED PERMITTED ZONES**
- |            |            |
|------------|------------|
| C-1 (P)    | DT-TCO (P) |
| C-2 (P)    | M-U (A)    |
| C-3 (P)    | M-1 (A)    |
| DT-NCO (P) | M-2 (A)    |
| DT-NGO (P) |            |

- 300' Radius
- Schools and Daycare with 300' buffer

