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007859

COMPREHENSIVE POLICY PLAN AND
EXTRATERRITORIAL ZONING AREA ORDINANCE

STATE OF NEW MEXICO)
County of San Miguel) SS.
I hereby certify that this instrument
was filed for record on

JUL 07 1988

at 4:00 o'clock P.M. and was duly
recorded in Book 239 of Page 7635
I witness my hand and seal of office
By Patricia L. Romero County Clerk
Deputy

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JOINT MUNICIPAL/COUNTY
EXTRATERRITORIAL ZONING AREA ORDINANCE

AN ORDINANCE RELATING TO THE ZONING OF THE EXTRATERRITORIAL ZONE OF THE CITY OF LAS VEGAS AND COUNTY OF SAN MIGUEL.

WHEREAS, on October 17, 1984, the City of Las Vegas, hereinafter called the "City" and the County of San Miguel, hereinafter called "County", pursuant to the provisions of Section 3-21-1 through 3-21-14, N.M.S.A., 1978 as amended, have entered into a Joint Powers Agreement for purposes of providing for the zoning of the extraterritorial area lying outside and within one mile of the City's boundary, as well as the portion north of the City's boundary along State Highway 65 to a point south of the Las Vegas diversion dam on the Gallinas River; and

WHEREAS, pursuant to the Joint Powers Agreement and the statutory authority set forth in section 3-21-1 through 3-21-14, N.M.S.A., 1978, as amended, an Extraterritorial Zoning Commission has been duly appointed and the Joint Municipal/County Zoning Authority has been duly designated; and

WHEREAS, it is the intention of the City and County in adopting and enforcing this Zoning Ordinance to exercise all powers conferred upon them by the laws of the State of New Mexico; and

WHEREAS, all statutory prerequisites to the consideration of this ordinance by the Joint Municipal/County Zoning Authority (hereinafter "Authority") have been complied with; and

WHEREAS, a Zoning Ordinance has been recommended by the Extraterritorial Zoning Commission (hereinafter called "Commission") which is in itself a comprehensive plan.

NOW, THEREFORE, BE IT ORDAINED BY THE AUTHORITY that the following Ordinance be, and the same is hereby adopted.

INTRODUCTION

Communities evolve and grow because people have increased freedom of movement. Starting from the central core of cities, American cities have expanded outward, first in concentric circles and then along the corridors of major roadways in the pattern referred to as urban sprawl. Frequently, people locate in rural areas to escape crowded and deteriorated living conditions of a city. What often begins as a large lot development, evolves into a suburban area with the necessity of public water and sewerage facilities to protect the public health.

Many people have settled in the Extraterritorial Zone (ETZ) because it has wide open spaces, allows horses and other animals, but is conveniently near Las Vegas. Others earn a part of their livelihood as ranchers, particularly in locations where water rights are available.

Initially, most of the homes in the ETZ were on large rural tracts. Occasionally, children of ranchers would settle on a small lot split off from the larger estate. The absence of zoning regulations in the ETZ and the unrecorded subdivision lot splits of less than five lots in a three year period created denser development that was unplanned. Pressure is expected to continue to grow for more development in the ETZ. The resulting trend is that some of the characteristics which attracted people to the ETZ are being, and will continue, to erode.

Residential growth should be regulated so as to provide reasonable use and enjoyment of private property while promoting the preservation of a semi-rural environment. Situations such as half a dozen mobile homes parked on a one half acre site with inadequate electric, sewer and water service, no landscaping and abundant outdoor storage, or a manufacturing-warehouse operation adjacent to a residential subdivision are inconsistent with the character of the semi-rural ETZ.

A great amount of additional growth can occur in the ETZ without jeopardizing the desired semi-rural atmosphere if it is accomplished at a very low density, such as one dwelling unit per five acres. Improved design and minimum park size regulations would greatly increase the acceptance of mobile home parks. Urban scale development should be limited to the Las Vegas fringe, where it can be properly serviced and where it will be aesthetically compatible with its surroundings.

The San Miguel County Commissioners and Las Vegas City Council, realizing that unplanned growth was detrimental to the entire community, established the mechanism to encourage planned development. The creation of the Extraterritorial Zoning Commission and its purpose of proposing a Zoning Ordinance for the ETZ Area was authorized by a Joint Powers Agreement between San Miguel County and the City of Las Vegas on October 17, 1984.

State statutes require that a Zoning Ordinance be adopted in accordance with a Comprehensive Plan. The purpose of a Comprehensive Plan is to provide the County of San Miguel and the City of Las Vegas with an official public document which prescribes orderly development of all types of land uses. This plan is designed to anticipate and provide

for the orderly and coordinated development of land and building uses in the Extraterritorial Zoning Area. The plan consists of three (3) parts: the text, the technical (statistical) data, and the maps.

The planned text contains goals, objectives and, policy statements. In order to clearly understand the relationships of these goals, objectives, and policies to the Statutory Zoning Ordinance requirements, goals, objectives, and policies are defined as follows:

1. Goals - expressions of the area's desires.
2. Objectives - benchmarks or targets to be achieved to reach the goals.
3. Policies - commitments to act in a prescribed manner in working towards these objectives.

The technical (statistical) data consists of an analysis of demographic, social, and economic aspects of the area. This technical data is used as reference and support material for the policy statements made in this plan.

The maps are used to geographically illustrate the goals, objectives, and policies of the plan and are to be used in that context.

The plan is based on the best knowledge and data available about the area. As circumstances change, the community's views and goals may change, therefore, the plan must be reviewed periodically, updated and changed accordingly.

The Las Vegas-San Miguel Extraterritorial Zoning Commission has established the following goals for the area under their jurisdiction:

1. The development of an Extraterritorial Zoning area capable of meeting the needs and wants of all the people in the area.
2. The encouragement and development of the Extraterritorial Zoning area into a place where all people will have the opportunity to grow and develop.

In order to achieve these goals, the following objectives and policies are established in the Extraterritorial Zoning Area:

OBJECTIVES AND POLICIES

1. Establish sound land use patterns;
2. The orderly development of the Extraterritorial Zoning area in such a manner as to enhance the character of the area;
3. Discourage sprawl;
4. The encouragement of the development of commerce and industry in the adjacent commercial areas in order to improve the economic base;

5. Recognize the need for park and recreation facilities in areas to meet the needs of the Extraterritorial areas;
6. To designate sufficient land areas in appropriate locations that will encourage the location of structures and land for commerce, industry and residences in areas where they are compatible with neighboring land uses;
 - 6a. Establish specific zoning standards designed to control the following: noise, odor, vibration, smoke, dust, radioactivity, circulation patterns, density, off street parking, and loading;
 - 6b. Encourage the location of structures and land uses within reasonable proximity to existing utilities and other public services to make development more feasible;
 - 6c. Encourage innovative site designs;
 - 6d. Recognize the capability of public services, particularly water and sewer limitations and capabilities when considering development proposals;
 - 6e. Encourage substantial completion of the development of existing neighborhoods to minimize the extent of undeveloped areas between existing and new neighborhoods;
 - 6f. Require that future high density developments be located in the vicinity of existing high density areas, major transportation routes and near adequate public facilities;
7. To assure that environmental and economic impacts of growth are considered in the decision making process in the Extraterritorial area;
 - 7a. Coordinate with other local, state, and federal agencies (such as the State Highway Department, State Department of Economic Development and Tourism, State Department of Finance and Administration, HUD, EDA, Local Government Division, etc.) to diversify the economic base of the community.
8. Encourage preservation of agricultural lands, yet recognizing that all agricultural lands cannot be protected from the development process;
 - 8a. Provide for the expansion and development of agriculturally based industrial activities;
 - 8b. Plan and work with San Miguel County to preserve agricultural lands outside of the Extraterritorial area;
 - 8c. Encourage the efficient utilization of land within the Extraterritorial area through adoption of a Zoning Ordinance which will allow for efficient land use;

9. Encourage the protection and improvement of open spaces, natural amenities, and the visual aesthetics of the area;
10. Minimize public and private losses due to flooding (by guiding development and protecting natural drainage areas, channels and basins);
 - 10a. Preserve existing open spaces and natural areas;
 - 10b. Develop specific Zoning Ordinance language to protect arroyo's, streams, and the Gallinas River from unauthorized channel alterations, loss of stream banks, pollution, and other activities that may adversely impact these areas;
 - 10c. Plan and work with other local, state, and federal agencies to limit development in areas subject to flooding and other natural hazards;
 - 10d. Seek to develop the Gallinas River Park through the Extraterritorial area;
11. Encourage development in areas where there are adequate public services (water, sewer, roads, police, fire) and limit development in areas where these services are not available;
12. Encourage development of utility systems that are compatible with the general land use patterns prescribed in this Plan;
 - 12a. Develop and implement comprehensive water and sewer plans;
 - 12b. Encourage the City to plan and implement expansion of its water and sewer facilities that are within the general land use patterns of this plan;
 - 12c. Adopt specific zoning code language which designates appropriate land use densities in areas that have or may not have adequate utility systems;
13. Provide for safe and efficient traffic circulation patterns;
 - 13a. Plan and implement a traffic circulation plan for the Extraterritorial area;
 - 13b. Plan and implement an efficient truck route both through the Extraterritorial area and to industrial, commercial and congested areas within the Extraterritorial area;
 - 13c. Seek to develop bicycle and pedestrian routes throughout the Extraterritorial area;
14. Promote public and private rehabilitation throughout the Extraterritorial Zoning area to reduce neighborhood deterioration and promote private investment;
15. Encourage retention and re-use of buildings of historic value;

16. Preserve the cultural aspects of the area;

16a. Incorporate specific Zoning Ordinance language addressing historic preservation and historic resources;

16b. Seek state and/or federal funds to reduce neighborhood deterioration.

Based on these goals, objectives, and policies, the Extraterritorial Zoning Commission has developed the Zoning Ordinance which follows as a land use implementation tool for the Extraterritorial Zoning Area.

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ARTICLE I - TITLE, PURPOSE, AND JURISDICTION

Section 1000 - Short Title

This Ordinance, as amended from time to time, may be cited as the "Extraterritorial Zoning Area Ordinance".

Section 1001 - Purpose

An official zoning plan for the Extraterritorial Zoning Area is hereby established and adopted to serve the public health, safety, and general welfare of the community and to provide the economic and social advantage resulting from an orderly, planned use of land resources.

Section 1002 - Authority for Ordinance

This Ordinance is adopted pursuant to the provisions of Section 3-21-1 through 3-21-14, NMSA, 1978, as amended.

Section 1003 - Existing Uses

The existing use or uses of all buildings, improvements, and premises not in conformity with the standards or requirements of this Ordinance, and which uses are legal, may continue as nonconforming uses as hereinafter defined.

Section 1004 - Effective Date

This Ordinance will become effective on the 30th day after recording of this Ordinance in the Office of the San Miguel County Clerk and the Office of the Las Vegas City Clerk.

Section 1005 - Application of Ordinance

The area subject to the provisions of this Ordinance shall be referred to as the Extraterritorial Zoning Area. The provisions of this Ordinance shall apply to that area lying outside of the City limits, having boundaries as shown on the Official Extraterritorial Zoning Map hereby adopted by this Ordinance as Exhibit A.

ARTICLE II - DEFINITIONS

Section 2000 - Purpose

It is the purpose of this article to define words, terms, and phrases contained within this Ordinance.

Section 2001 - Word Usage

- A. Words used or defined in one tense or form shall include other tenses.
- B. Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- C. The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- D. The word "shall" is mandatory.
- E. The word "may" is permissive.
- F. The word "person" includes individuals, firms, corporations, associations, trusts, and other similar interests.
- G. The word "Commission" means the Extraterritorial Zoning Commission.
- H. The word "Authority" means the Extraterritorial Zoning Authority.

Section 2002 - Definitions

Abutting - Having a common border with, or being separated from such common border by an alley or easement.

Access - A means of vehicular approach to or exit from property

Acre - Forty three thousand, five hundred sixty (43,560) square feet.

Airport - An area used or intended to be used for the landing and takeoff of aircraft.

Airport Elevation - The established elevation of the highest point on the usable landing area of the Las Vegas Municipal Airport, which is 6,867 feet, Mean Sea Level.

Airport Reference Point - The point established as the approximate geographic center of the Las Vegas Municipal Airport landing area and

is established at a location described as follows: Longitude 105 degrees 8 minutes 30.85 seconds W, Latitude 35 degrees 39 minutes 14.71 seconds N.

Alley - A thoroughfare either used as such or shown on any recorded description which affords only a secondary means of access to abutting property.

Appeal - A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance.

Bufferyard - A unity of land, together with planting thereon, which may be required between land uses to eliminate or minimize conflicts between them.

Building - A structure built, maintained, or intended for use for the shelter or enclosure of persons, animals, or property of any kind. Where independent units with separate entrances are divided by party walls, each unit is a building.

Building, Accessory - A building which is subordinate to and serves a principal structure or use, and is located on the same lot as the principal structure or use.

Caretaker's Residence - A dwelling unit which is used exclusively by either the owner, manager, or operator of a principle permitted use and which is located on the same lot as the principal use.

Combined Noise Rating (CNR) - A value computed pursuant to Federal Aviation Administration standards and procedures and arranged in contours on a map of airport area of influence.

Comprehensive Plan - A plan presenting the goals, objectives and policies for the physical, social, economic, and environmental development of the Extraterritorial Zoning Area.

Development - The making of any material change in the use or appearance of any structure or land, including: construction, reconstruction, alteration, repair, addition to or location of a structure; use of land or a structure; and division of surface area of land.

Drainage - The removal of surfacewater or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation or prevention or alleviation of flooding.

Dwelling - A building designed exclusively for residential purposes, including single family and multi-family family dwellings, but not including hotels and motels.

Dwelling, Single Family - A dwelling designed for and occupied by not more than one (1) family.

Dwelling, Multiple Family - A building designed exclusively for occupancy by two (2) or more families living independently of each other and containing two (2) or more dwelling units. This definition includes row houses.

Easement - A right or privilege that a person or persons may have on another's land, such as the right of passage.

Exterior Storage - Outdoor storage of fuel, raw materials, products, and equipment.

Extraterritorial Zoning Area - That area which is within the boundaries agreed to by the governing bodies of the City of Las Vegas and the San Miguel Board of County Commissioners in the Joint Powers Agreement adopted October 17, 1984.

Extraterritorial Zoning Authority - The joint County/Municipal Board appointed by the Board of County Commissioners and City Council which has zoning jurisdiction within the Extraterritorial Zoning Area.

Extraterritorial Zoning Commission - A commission appointed by the City Council and Board of County Commissioners who shall recommend a Zoning Ordinance to the Extraterritorial Zoning Authority which is applicable to the Extraterritorial Zoning Area.

Family - One (1) or more persons related by blood, marriage, adoption, or guardianship, or not more than five (5) persons not so related occupying a dwelling unit.

Floodplain - Floodplains are those areas contiguous with a lake, stream, or stream bed whose elevation is greater than the normal water level but equal to or lower than the projected 100 year flood elevation.

Group Dwelling - The residence of a group of six (6) or more persons, not related by blood, marriage, adoption, or guardianship and living together as a single housekeeping unit.

Home Occupation - Any occupational use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and which does not adversely affect the surrounding uses.

Hotel - A building or a portion thereof providing six (6) or more individual sleeping units or guest rooms without cooking facilities for the lodging of transient persons (with or without provision of meals) in return for compensation.

Impervious Surface - Surfaces which do not absorb water. They consist of all buildings, and any areas of concrete or asphalt.

Incompatible Use - A use which is inconsistent or otherwise inappropriate to the existing land uses within the surrounding areas.

Intensity Class - a measure of the magnitude and negative impacts of a land use on the environment and neighboring land uses.

Junkyard - Any land or structure used for a salvaging operation, including but not limited to the storage and sale of wastepaper, rags, scrap metal and discarded material, and the collection, dismantling, storage, and salvage of two (2) or more unlicensed, inoperative vehicles or used appliances.

Landing Area - The area of the airport used for the landing or take-off of aircraft.

Lot - A tract or parcel of land platted and placed on the County Clerk's records, or a tract or parcel of land described by metes and bounds, held in separate ownership, as shown on the records of the County Assessor.

Lot Depth - The horizontal distance between the front and rear lot lines measured in the main direction of the side lot lines.

Lot, Corner (Normal) - A lot located on the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot Corner (Reverse Frontage) - A lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general layout of lots in the area.

Lot Frontage - The front of a lot shall be construed to be that portion of a lot nearest the street.

Lot, Through - A lot other than a corner lot with frontage on more than one street.

Lot Width - The dimension of the lot line at the street; or, in an irregularly shaped lot, the dimension across the lot at the building setback line; or, in a corner lot, the narrow dimension of the lot at the street or building setback line.

Mobile Home - A vehicle without motive power designed to be towed by a motor vehicle, that is or was equipped with wheels and axles, and is intended for occupancy as a dwelling for unlimited periods of time.

Mobile Home Park - Any area or tract of land where space is rented to owners or renters of mobile homes.

Motel - A building or group of buildings containing six (6) or more individual sleeping units or guest rooms where lodging with or without provisions of meals is provided for compensation. Motels are designed to temporarily accommodate the automobile tourist or transient with parking facilities conveniently located near each unit. This definition includes tourist, motor and automobile court and motor lodge.

Non-Residential Use - A use which does not involve the use of a structure as a dwelling.

Nonconformity - Development which does not comply with this Ordinance or as hereinafter may be amended and which lawfully existed on the effective date of this Ordinance.

Open Space - Land which is freely accessible to all residents of a development with the exception that agricultural land uses shall be permitted to restrict access to that land to those solely engaged in agricultural pursuits. Open space land shall not be occupied by non-recreational buildings, roads, or road right-of-ways, nor shall it include the yards or lots of single or multi-family dwelling units required to meet the minimum standards or parking areas.

Owner - A person or his successor in interest in real estate, or structures thereon.

Off-Street Parking - An area used for required temporary parking and having access at all times to a public street or alley.

Parking Space - A space adequate for parking an automobile consisting of a minimum area nine feet wide by twenty feet long, exclusive of streets, alleys, driveways, aisles and the areas of egress and ingress.

Person - Any individual, estate, trust, receiver, partnership, cooperative association, or any other legal entity.

Pre-Fabricated Structure - Any structure that is manufactured wholly or in part at a location other than the lot where it is currently located, and that at no time had provisions for being towed by any vehicle incorporated as a part of its structure. A prefabricated structure could not have been a part of any vehicle designed to provide temporary or permanent human habitation and must meet the building code for the use to which it is put.

Primary Surface - A surface longitudinally centered on a runway and extends 200 feet beyond each end of that runway provided the surface is hard otherwise the primary surface ends at each end of that runway.

The primary surface is established as 200 feet beyond each end of the runways and has a width of 500 feet.

Recreational Vehicle - A vehicular unit that is mounted on or drawn by another vehicle primarily designed for temporary living. Recreational vehicles include but are not limited to travel trailers, camping trailer, truck campers, and motor homes.

Recreational Vehicle Park - Spaces on which campsites are established for occupancy by recreational vehicles as temporary living quarters for purpose of recreation or vacation.

Restaurant, Fast-Food - An establishment whose principle business is the sale of food and/or beverages in a ready to consume state for consumption within the building, within a motor vehicle parked on the premises, or off the premises as carry-out orders.

Rooming House - A dwelling where lodging is provided for persons who are not members of a family occupying a dwelling unit as other than a housekeeping unit.

Runway - The surface of an airport landing strip.

Septic Tank System - A tank which is designed and constructed to separate solids from the liquid and digest organic matter through a period of detention together with an absorption field.

Solid Waste - Any solid or semi-solid discarded material which results from household, commercial, industrial, or other operations, but does not include water-carried waste in sewage systems.

Street - Any public or private way which affords principal means of access to abutting properties.

Structure - Anything which is constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

Yard - An unoccupied openspace which lies between the property line and the building setback line, the inside boundary of which shall be considered parallel to the nearest property line.

Yard Front - A yard extending between the side lot lines across the front of a lot adjacent to a street; provided that in the case of through lots, front yards shall be provided on both frontages; in case of both normal corner and reversed frontage lots, a full depth front yard shall be provided in accordance with the prevailing lot pattern and a second front yard of half depth shall be provided on the other frontage; in case of corner lots with more than two (2) frontages the zoning official shall determine the front yard requirements subject to

the following limitations: At least one front yard shall be provided having the full depth specified for the district; and no other front yard shall have less than half the full depth required for a front yard in the district.

Yard Rear - A yard extending across the rear of the lot between inner side yard lines and opposite the required front yard provided; that corner lots with normal frontage shall have a rear yard extending from the inner side line of the side yard adjacent to the interior lot to the rear yard is provided for a reverse frontage corner lot and moreover in lots of this description the yards remaining after the full and half depth front yards have been established shall be considered side yards.

Yard Side - A yard extending from the rear line of the required front yard to the rear lot line provided; that on corner lots with normal frontage there will be only one side yard adjacent to the interior lot, and further provided that in through lots the side yard shall extend from the rear lines of the front yards required.

Zoning Officer - The duly appointed representative of the Las Vegas Extraterritorial Zoning Commission.

ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS

Section 3000 - Establishment of Zoning Districts

The Extraterritorial Zoning Area is hereby divided into zoning districts of such number and character as are necessary to achieve compatibility of uses within each district, and to serve the other purposes of this Ordinance which are detailed in Article I.

Section 3100 - Zoning Districts

For the purpose of this Ordinance, all land is hereby divided into zoning districts which shall be designated as follows: agricultural (AG) district, rural (R) district, neighborhood conservation (NC) district, development (D) district, industrial (I) district, estate (E) district.

Section 3200 - Map of Zoning District

The location and boundaries of the various zones as hereafter determined shall be shown and delineated on the "Official Zoning Map" of the Extraterritorial Zoning Area which shall upon its final adoption, be made a part of this Ordinance, and said map and all notations and information shown thereon shall thereafter be as much a part of this Ordinance as if all the matters and information set forth on said map were fully described herein. The Official Zoning Map shall be identified by the signature of the Extraterritorial Zoning Authority Chairman and bearing the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3500 of the Extraterritorial Zoning Ordinance 1986 Codification together with the date of adoption of this Ordinance".

Section 3300 - Statement of Purpose and Intent of Zoning Districts

The following sections specify the purpose and intent of the zoning districts established by this Ordinance.

Section 3301 - Agricultural District

This district is intended to protect and preserve areas of agricultural and agriculturally oriented uses. The standards and densities prescribed for this district are intended to preserve the open character of the area and thereby to protect the business of agriculture. This district is not intended to regulate agricultural uses, but to regulate those uses which threaten agriculture.

Section 3302 - Rural District

This district is intended to protect and preserve areas which are presently rural or agricultural in character and use. These areas are

not presently required for urban development and will not be required for development in the foreseeable future. The standards developed for these areas are designed to permit development compatible with the preservation of their rural character and agricultural use while not permanently foreclosing future development.

Section 3303 - Estate District

The estate district is intended to provide low-density, limited growth residential areas. It is designed to accommodate residential development opportunities for those who desire low-density living and are willing to assume the costs of providing many of their own services and amenities. Capital improvements such as highways and sewer and water line extensions should be discouraged away from this district. The low intensity of uses permitted in this district generally permit on-site septic systems and wells.

Section 3304 - Neighborhood Conservation District

This district is intended to preserve the character of existing neighborhoods and developments under construction at the time of adoption of this Ordinance. It is designed to prevent these neighborhoods and subdivisions from becoming nonconforming under the terms of this Ordinance. These neighborhoods are allowed to continue in-filling consistent with their character at the time of enactment of this Ordinance.

Section 3305 - Development District

This district is intended to accommodate most of the growth expected in the unincorporated areas of Las Vegas. This district provides regulations which permit development of a generally suburban character. It provides for moderate density residential development and for necessary commercial, institutional, and light industrial uses.

Section 3306 - Heavy Industrial District

This district is intended for those industrial areas which must be segregated because they create a higher degree of hazard or annoyance than allowed in any other districts.

ARTICLE IV - REGULATIONS

Section 4000 - Purpose

The purpose of the regulations contained in this article is to allow maximum utilization of land while insuring against detrimental impacts on the environment, neighboring properties, and the public interest.

Section 4100 - Use Regulations

The purpose of this section is to indicate which land uses may locate in each zoning district and which uses may not locate therein. A further distinction is made between uses which may locate in a district only upon obtaining a Conditional Use Permit.

Section 4101 - Uses Permitted by Right, Uses Permitted with Conditional Use Permits, and Uses Not Permitted

Except as otherwise provided by law or in this Ordinance, no building, structure, or land shall be used or occupied except in the zoning district indicated and for the purposes permitted in this section.

- A. A use listed in Section 4102 in any district denoted by the letter "Y" is a use permitted by right.
- B. A use listed in Section 4102 in any district denoted by the letter "C" may be permitted as a conditional use.
- C. A use listed in Section 4102 is not permitted in any district denoted by the letter "N".
- D. Uses not listed in Section 4102 are not permitted in any district except pursuant to Article VII, which provides for interpretation of uses or Article VI, which provides for nonconformities.

No use is automatically permissible on every lot in a particular district. No use is permissible unless it can be located in full compliance with all of the regulations and standards of this Ordinance applicable to the specific use and lot in question.

Section 4102 - Table of Permitted Uses

DISTRICTS

General Use Category	Agricultural	Rural	Estate	Development	Neighborhood Conservation	Heavy Industrial
<u>A</u> Agricultural	Y	Y	Y	N	N	N
B. Residential	Y	Y	Y	Y	Y	N
C. Institutional						N
1. Outdoor Recreation	C	C	C	C	Y	N
2. Commercial <i>Institutional</i> Stables	C	C	C	N	N	N
3. Indoor Recreation	N	N	N	Y	N	N
4. Special Residential	N	N	N	Y	N	N
D. Commercial						N
1. Office	N	N	N	Y	N	Y
2. Commercial/Entertainment	N	N	N	Y	N	N
3. Commercial/Recreation	N	N	N	Y	N	N
4. Road Service	N	N	N	Y	N	Y
5. Public Service	Y	Y	Y	Y	Y	Y
6. Agricultural Support	Y	Y	N	Y	N	N
7. Regional Shopping	N	N	N	C	N	N
E. Industrial						
1. Light Industry	N	N	N	Y	N	Y
2. Heavy Industry	N	N	N	C	N	Y
3. Extraction	C	N	N	N	N	Y
4. Landing Strips	C	C	N	N	N	Y
5. Heliports	C	C	N	C	N	Y
F. Airports	C	N	N	N	N	N

Section 4103 - Categories Defined

The categories utilized by this Ordinance are defined in Section 4104 through 4109. The uses not enumerated in this section are not necessarily excluded. Article VIII empowers the Zoning Officer to make interpretations of use.

Section 4104 - Agricultural Uses

Agriculture uses include farms and farm residences, fish or poultry hatcheries, fur bearing animal ranches, orchards, raising of livestock, horses, poultry truck farming and all other agricultural uses.

Section 4105 - Residential Uses

Residential uses include all single family and multi-family dwelling units.

Section 4106 - Recreational, Institutional, and Special Residential Uses

- A. Outdoor recreational uses include areas for recreational activities such as cycling, jogging, golf courses, outdoor ice skating rinks, parks, picnic areas, playfields, playgrounds, commercial stables, outdoor swimming pools, tennis courts, shooting ranges, etc.
- B. Institutional, uses include cemeteries, churches, libraries or museums, hospitals, governmental buildings, schools for the mentally or physically handicapped.
- C. Indoor recreational uses include community or recreational centers, gymnasiums, indoor recreational centers, indoor swimming pools, tennis, raquetball and handball courts.
- D. Special Residential uses include rooming houses, group dwellings, halfway houses, nursing homes, homes for the physically or mentally handicapped, and bread and breakfast homes.

Section 4107 - Commercial Uses

- A. Office uses include personal service uses, governmental offices, and other office uses.
- B. Commercial and Entertainment uses include animal shelters, auto accessory stores, banks and other financial institutions, blueprint and photostat stores, bowling alleys, private indoor clubs, commercial or trade schools, (e.g., dance studios, schools for martial arts), funeral homes, mortuaries, garden supply and/or greenhouses, grocery stores and supermarkets, hotels or motels, laundries and/or dry cleaners, light mechanical repair stores (e.g., watch, camera, bicycle, T.V.), lodges for fraternal orders, package stores, restaurants, retail sales or stores, service business or stores (e.g., catering, duplicating, photography, shoe repair, tailoring, travel agencies, upholstery), shopping centers, theaters and auditoriums (indoor), and all other commercial and entertainment uses.
- C. Commercial recreational uses include amusement parks, drive-in theatres, fairgrounds, outdoor theatres, race tracks and sports arenas.
- D. Road Services include arcades or billiard parlors, convenience stores, gasoline service stations, fast food restaurants, recreational vehicle parks, taverns, commercial vehicle garages, vehicle rentals, vehicle repair (body) shops, and vehicle sales supplies, and services.

- E. Public services include emergency, service buildings or garages (e.g. ambulance, fire, police, rescue), utility or broadcasting stations, and all other public utility and public service uses.
- F. Agricultural support include farm equipment sales and repair, farm produce sales and supply, and farm products processing.
- G. Regional shopping centers includes commercial land use developments containing two or more acres intended for retail sales which exclude manufacturing, assembly, treating, repairing rebuilding, wholesaling, and warehousing uses.

Section 4108 - Industrial Uses

- A. Light industry includes blacksmith shops; building material sales or storage yards; fully enclosed bulk materials or machinery storage; contractor's offices and equipment storage yards; dry cleaning and laundry plants; dyeing plants; food processing and equipment plants; fuel oil, ice, coal and wood sales; furniture refinishing shops; lumber yards; production, processing, cleaning, testing and distribution of materials, goods, foodstuffs and products; mini-warehouses; printing and publishing plants; trade shops; veterinary offices with fully enclosed runs, yards, pens, and kennels; and wholesale business and storage.
- B. Heavy industry includes landing strips and heliports, asphalt or concrete mixing plants, bulk material and unenclosed material storage, fuel generation plants, grain elevators, meat packing plants or slaughter houses, resource recovery facilities motor or rail terminals, and large employee manufacturing plants.
- C. Extraction and junkyard uses include junk, scrap, or salvage yards and all extraction uses.

Section 4109 - Airports

Airport uses include all aviation and related services inherent to the operation of an airport.

Section 4200 - Natural Resource or Natural Limitations Performance Standards.

- A. All development shall be preceded by the identification of any environmental or natural feature described below and shall meet the following standards of environmental protection.
- B. Section 4201 through 4206 specifies the environmental protection standards applicable to each natural resource identified therein.

Section 4201 - Arroyos

Arroyos shall not be the site for any development. All such areas shall be permanent open space.

Section 4202 - Floodplains

- A. The determination of the 100 year floodplain boundary shall be based on Certified HUD Flood Hazard Boundary Maps.
- B. All such areas shall be permanent open space.
- C. The following uses are permitted within the floodplain as a matter of right:
 - 1. Natural areas such as woodlands, natural water courses, wetlands, etc.
 - 2. Agricultural uses
 - 3. Outdoor recreation
 - 4. Buildings or structures may be located adjacent to a floodplain when the finished surface of the ground is higher than, or is raised by filling to an elevation of at least two (2) feet above the elevation of the floodplain.

AMENDED - SEE AMENDMENTS

Section 4203 - Steep Slopes

- A. No more than twenty (20) percent of a persons property being developed in areas between eight (8) to fifteen (15) percent slopes may be developed, regraded, or stripped of vegetation.
- B. No more than ten (10) percent of a persons property being developed in areas between fifteen (15) to thirty (30) percent slopes may be developed, regraded, or stripped of vegetation.
- C. Slopes greater than thirty (30) percent may not be developed, regraded, or stripped of vegetation.

Section 4204 - Erosion Hazard Areas

All erosion hazard areas shall remain in open space.

Section 4205 - Woodlands

No more than fifteen (15) percent of a persons property being developed in any woodland may be cleared or developed. The remaining eighty five (85) percent shall be maintained as permanent open space.

Section 4206 - Stormwater Runoff

- A. Each development in excess of a single family unit shall provide engineering plans for the on-site or off-site detention and release of excess stormwater runoff.
- B. No development shall cause downstream property owners to receive stormwater runoffs from proposed developments at a higher peak flow rate than would have resulted with the land in its natural, undeveloped condition.
- C. All stormwater storage facilities shall be designed with sufficient capacity to accommodate all runoff caused by the development.

Section 4300 - Land Use Intensity Classifications and Bufferyards

All land uses which are permitted by this Ordinance have been assigned a land use intensity class designation (See Section 4302). This classification system separates uses on the basis of the type and degree of negative impact they are likely to impose on land uses adjacent to them. In order to minimize any negative impact that a more obnoxious or intensive use will impose on its neighbors, this Ordinance requires that bufferyards be provided between uses.

Section 4301 - Land Use Intensity Class Standards

A developer may develop at an intensity which will minimize nuisances to neighbors or provide a denser bufferyard if the land is developed at greater intensities. The impacts of greater intensities may include greater impervious surface coverage, increased bulk and height of buildings, increased traffic with associated noise and congestion, signs and exterior lighting visible from neighboring properties, late hours of operation. The range of intensity classes open to a use does not affect whether it can locate on its lot, but only how it can develop on that lot.

Section 4400 - Bufferyards: Purpose

This is a unit of land together with the required planting on a parcel of property which is designed to ameliorate nuisances between adjacent land uses. Bufferyards are required so that different land use classes may be separated from each other in order to eliminate or minimize potential nuisances.

Section 4401 - Location Of Bufferyards

Bufferyards shall be located on the outer perimeter of a lot or parcel. They shall not be located on any portion of an existing or dedicated public right-of-way or private street.

Section 4402 - Determination of Bufferyard Requirement

To determine the type of bufferyard required between two adjacent parcels, the following procedures shall be followed:

- A. Identify the land use category of the proposed use by referring to Sections 4104 through 4109.
- B. Identify the land use category of the adjacent properties.
- C. Identify the land use intensity class of all adjoining land uses by referring to Section 4302.
- D. Determine the bufferyard required on each boundary of the subject by referring to Section 4403.

Sec 1302 - Table of Land Use Intensity Classification Standards

Land Use Intensity Class General Use Category	Maximum Density Dwelling Units (per acre)	Maximum Impervious Surface Ratio	Maximum Heights (ft.)	Exterior Storage	Hours of Operation
Class I					
Agriculture	.1	.05	30	n/a	n/a
Class II					
Residential					
Single-Family Outdoor	1.0	.12	30	none	n/a
Recreation	n/a	.05	15	none	7am-9pm
Class III					
Residential					
Single-Family	3.0	.26	30	none	n/a
Multi-Family Outdoor	5.0	.30	30	none	n/a
Recreation	n/a	.08	20	none	7am-9pm
Class IV					
Residential					
Single-Family	5.0	.35	30	none	n/a
Multi-Family Outdoor	14.0	.52	60	none	n/a
Recreation	n/a	.10	20	none	7am-9pm
Class V					
Outdoor Recreation	n/a	.15	30	none	7am-9pm
Indoor Recreation, Institutional, and Special Residential	n/a	.30	30	none	7am-10pm
Public Service	n/a	.30	30	none	7am-10pm
Office	n/a	.20	30	none	n/a
Class VI					
Outdoor Recreation	n/a	.25	30	none	7am-10pm
Public Service	n/a	.50	30	none	n/a
Indoor Recreation, Institutional, and Special Residential	n/a	.60	30	none	6am-10pm
Office	n/a	.60	30	none	6am-10pm
Commercial/Entertainment	n/a	.50	30	none	n/a
Light Industry	n/a	.40	30	none	n/a
		.30	30	none	6am-10pm

Land Use Intensity Class	General Use Category	Maximum Density Dwelling Units (per acre)	Maximum Impervious Surface Ratio	Maximum Heights (ft.)	Exterior Storage	Hours of Operation
Class VII						
Outdoor Recreation		n/a	.40	30	none	6am-12pm
Public Service		n/a	.70	30	.10	n/a
Indoor Recreation,		n/a	.70	30	none	n/a
Institutional, and		n/a	.70	30	none	n/a
Special Residential		n/a	.70	30	none	n/a
Office		n/a	.70	30	none	n/a
Commercial/						
Entertainment		n/a	.65	30	none	n/a
Agricultural Support		n/a	.65	30	none	n/a
Light Industry		n/a	.50	50	none	n/a
Road Service		n/a	.50	30	none	n/a
Class VIII						
Public Service		n/a	1.0	30	.50	n/a
Office		n/a	1.0	30	.10	n/a
Commercial/						
Entertainment		n/a	1.0	30	.30	n/a
Light Industry		n/a	.90	50	.50	n/a
Road Service		n/a	.90	30	.30	n/a
Commercial/						
Recreation		n/a	.70	30	none	n/a
Agricultural Support		n/a	.90	30	.50	n/a
Class IX						
Commercial/						
Recreation		n/a	.90	30	none	n/a
Light Industry		n/a	1.90	50	.75	n/a
Heavy Industry		n/a	.90	50	.90	n/a
Extraction		n/a	.10	30	.80	n/a

Section 4403 - Table of Bufferyard Requirements

Proposed Land Use Intensity Class	Adjacent Existing Land Use Intensity Class								
	I	II	III	IV	V	VI	VII	VIII	IX
I	None	A	A	A	A	A	None	None	F
II	A	None	C	D	D	E	G	H	I
III	A	C	None	D	D	E	G	H	I
IV	A	D	C	B	D	E	G	H	I
V	A	D	D	D	None	None	D	E	F
VI	A	E	E	E	None	None	C	D	E
VII	None	G	G	G	D	C	None	None	C
VIII	None	H	H	I	E	D	None	None	None
IX	F	I	I	I	F	E	C	None	None

Notes:

- A - 5 ft. bufferyard and 48" wood rail fence
- B - 5 ft. bufferyard
- C - 7.5 ft. bufferyard
- D - 10 ft. bufferyard
- E - 10 ft. bufferyard and 44" wood picket fence
- F - 10 ft. bufferyard and 6' wood stockade fence
- G - 10 ft. bufferyard and 6' masonry wall
- H - 10 ft. bufferyard and 8' masonry wall
- I - 15 ft. bufferyard and 8' masonry wall

Section 4500 - Sign Regulations

The purpose of this section is to establish minimum regulations permitting signs for advertising, identification or direction pertaining to a use conducted within a building provided:

- A. The sign is located entirely on private property and no part of which shall extend over right-of-way, sidewalk, or property line.
- B. Lighted signs are located as not to reflect into any residentially used property.
- C. A free standing sign does not exceed twenty five (25) square feet.
- D. A sign attached to a building or wall does not protrude more than four and one-half (4 1/2) feet from the wall of the building and no point of which is lower than eight (8) feet from the ground and does not extend beyond the property line, right-of-way, or over the sidewalk.

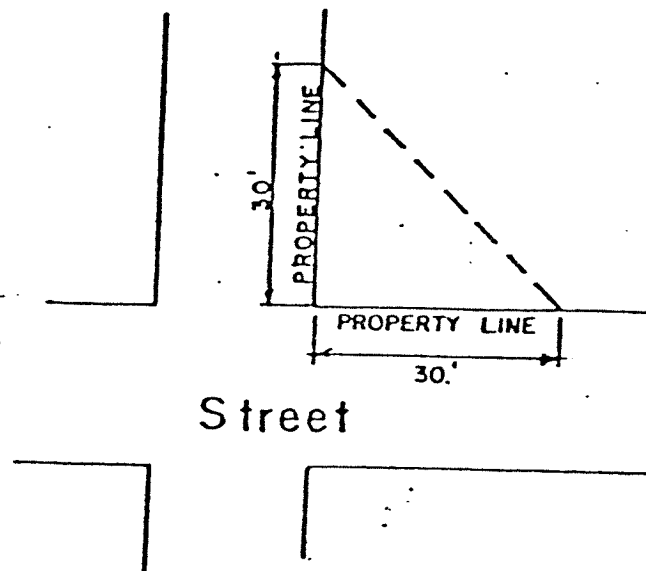
AMENDED - SEE AMENDMENTS

Section 4600 - Access for Fire Vehicles and Apparatus

- A. The purpose of this section is to facilitate rapid and effective extinguishment of fires by ensuring that all premises are readily accessible to the fire department.
- B. Every non-residential use permitted by this Ordinance shall provide access for fire vehicles and emergency apparatus from a public street.
- C. A fire lane shall comply with the following standards:
 - 1. Access for vehicles and apparatus shall be clear and unobstructed at all times.
 - 2. Signs prohibiting parking of motor vehicles shall be required.
 - 3. The fire lane surface shall be an all-weather roadway.

Section 4700 - Clearview of Intersecting Streets.

- A. In order to provide a clear view of intersecting streets to the motorist, there shall be a triangular area of clear vision formed by the two intersecting streets.
- B. On any portion of a lot that lies within the triangular area nothing shall be erected, planted, placed, or allowed to grow in such a manner as to impede vision of motorists between a height of three (3) feet and ten (10) feet above the grade at the two intersecting property lines.
- C. The triangular area shall be formed by a point on each property line and located thirty (30) feet from the intersection of the street lines and a third line connecting the points.



ARTICLE V - DETAILED USE REGULATIONS

Section 5000 - Purpose

The purpose of this article is to specify the detailed regulations that apply to specific land uses. This article also specifies the regulations applicable to temporary and accessory uses, and it details the off-street parking and loading requirements of permitted land uses.

Section 5100 - Standards Applicable to Certain Permitted Uses

A. Junk, Scrap, Or Salvage Yards.

1. Any outdoor display of vehicles shall be at least forty (40) feet from any street right-of-way.
2. All lubricant and fuel oil substances which are to be stored on the site shall be stored with all necessary precautions taken to prevent their leakage.
3. All hazardous materials (i.e., gasoline, chemicals, nuclear wastes) shall be stored in a safe manner as determined by the Zoning Officer.
4. A site plan will be required for the location of a junk yard showing the location of all buildings and storage areas for automobile and other vehicles, parts, lubricants, and other storage. This site plan shall be reviewed and approved or disapproved by the Zoning Officer.

B. All Road Service Uses.

1. Any outside display of vehicles for sale or storage shall be at least forty (40) feet from any street right-of-way.
2. All activities involving the production, processing, cleaning servicing, testing, or repair of materials, goods or products shall conform to all applicable requirements of this ordinance.
3. All repair, painting, and body work activities shall take place within a building.

C. Gas Stations.

1. All services except fuel service shall be performed within a completely enclosed building.

2. When within seventy-five (75) feet of a residential use, a gas station shall store all refuse and vehicle parts within a completely enclosed building or within an area which is completely screened from the view of those residences.

D. Miscellaneous.

1. Outdoor structures, such as bleachers, movie screens, and outdoor seating areas shall be at least twenty-five (25) feet from any lot line.
2. Campsites and recreational vehicle sites are subject to building setback regulations.

Section 5200 - Residential Use Regulations

This section specifies the minimum lot dimensions and other requirements for each type of residential use. The following table specifies the minimum standards:

Minimum Yard

	<u>Lot Width</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
Single Family	60'	20'	7'	20'
Multi-Family	70'	20'	7'	20'
Mobile Home	50'	15'	7'	15'

See below
↓

Section 5300 - Accessory Uses

- A. Accessory structures and uses are permitted in any zoning district in connection with any principle use lawfully existing within such district. The zoning officer shall determine whether a use is permitted as an accessory use pursuant to his or her authority to interpret the provisions of this ordinance.
- B. The accessory use, together with the principle use shall not exceed the land use intensity criteria in any given use class.
- C. No accessory structure shall be closer than ten (10) feet to a principle structure or closer than five (5) feet to any other accessory structure, unless it is attached to such structure.
- D. Detailed accessory use regulations: home occupations:
 1. Any resident conducting a home occupation shall apply for a zoning certificate from the zoning officer.

2. When within seventy-five (75) feet of a residential use, a gas station shall store all refuse and vehicle parts within a completely enclosed building or within an area which is completely screened from the view of those residences.

D. Miscellaneous.

1. Outdoor structures, such as bleachers, movie screens, and outdoor seating areas shall be at least twenty-five (25) feet from any lot line.
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- A. Accessory structures and uses are permitted in any zoning district in connection with any principle use lawfully existing within such district. The zoning officer shall determine whether a use is permitted as an accessory use pursuant to his or her authority to interpret the provisions of this ordinance.
- B. The accessory use, together with the principle use shall not exceed the land use intensity criteria in any given use class.
- C. No accessory structure shall be closer than ten (10) feet to a principle structure or closer than five (5) feet to any other accessory structure, unless it is attached to such structure.
- D. Detailed accessory use regulations: home occupations:
 1. Any resident conducting a home occupation shall apply for a zoning certificate from the zoning officer.

Minimum Yard

	<u>Lot Width</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>	<u>Minimum Lot Area</u>
Single Family	60'	20'	7'	20'	6000 sq. ft.
Multi-Family	70'	20'	7'	20'	7000 sq. ft.
Mobile Home	50'	15'	7'	15'	5000 sq. ft.

Section 5300 - Accessory Uses

- A. Accessory structures and uses are permitted in any zoning district in connection with any principle use lawfully existing within such

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2. The following criteria must be met by all home occupations:

- a. The occupation must be clearly incidental to the use of a dwelling as a residence.
- b. No outdoor storage or display of materials or equipment shall be permitted.
- c. Off-street parking shall be provided on the premises.
- d. No person outside the immediate family occupying the premises shall be employed.
- e. There shall be no external evidence of the activity such as commercial vehicles, noise, dust, odor, fumes on street parking, or hazards to any greater extent than what is usually experienced in a residential neighborhood.
- f. One (1) unlighted sign having a maximum area of two (2) square feet identifying the occupant and home occupation shall be permitted on the premises.

E. Detailed accessory use regulations: residence for caretaker or watchman.

1. One (1) single family residence for a caretaker, owner, operator, manager, or watchman and his immediate family is permitted as an attached or detached dwelling for any commercial or industrial use for purposes of protection and security of the principle use.

Section 5400 - Temporary Uses

- A. Temporary uses are permitted only as expressly provided in this section and shall comply with the requirements of Article VII.
- B. No temporary use shall be established unless a certification of compliance with the provisions of this section and other applicable provisions of this ordinance shall have first been issued by the Zoning Officer.
- C. The following are temporary uses which are subject to the following specific regulations and standards, in addition to the other requirements specified in this ordinance.
 1. Commercial Sales Related to Public Holidays, including, but not limited to christmas trees and fireworks:

- a. Permitted in any district.
 - b. Maximum length of use for display and open lot sales shall be forty-five (45) days.
 - c. Requires a business license.
2. Contractor's office and construction equipment sheds:
 - a. Permitted in any district where use is incidental to a construction project.
 - b. Maximum length of permit shall be one (1) year and renewable if good cause is shown.
 - c. Office or shed shall be removed upon completion of construction project.
3. Events of public interest:
 - a. Permitted in any district.
 - b. Events of public interest include but are not limited to outdoor concerts, bazaars, auctions, and historic celebrations.
 - c. Requires a business license.
4. Real estate sales office:
 - a. Permitted in any district for any new subdivision approved in accordance with subdivision regulations. The office may not contain sleeping or cooking accommodations unless a model home is used as a temporary sales office.
 - b. Offices other than model homes shall be removed upon completion of the development of the subdivision.
5. Religious tent meeting:
 - a. Permitted in any district.
 - b. Maximum length of use shall be fifteen (15) days.
6. Farmers Market:
 - a. Permitted in agricultural and rural districts as designated by the Zoning Officer.

- b. Sales areas shall be set back a minimum of thirty (30) feet from the right-of-way.
 - c. Requires a business license.
- D. Additional regulations for religious tent meetings, and events of public interest are as follows:
- 1. Documentation from the New Mexico Environmental Improvement Division that adequate arrangements for temporary sanitary facilities has been insured.
 - 2. No permanent or temporary lighting shall be installed without an electrical inspection and permit issued by the New Mexico State Electrical Inspector.
 - 3. All uses shall be confined to those specified by the Zoning Officer.
 - 4. Hours of operation shall be confined to those specified by the Zoning Officer.
 - 5. A security deposit shall be posted with the Zoning Officer to insure that the premises will be cleared of debris during and after the event and that any damage to the public right-of-way will be repaired. The minimum security deposit will be two hundred dollars (\$200.00).
 - 6. Public parking for the exclusive use of the facility shall be provided. The parking area shall be maintained to provide one parking space per leased space or booth. It shall be the responsibility of the event sponsor to guide patrons to these areas and to prevent unlawful parking.
 - 7. Traffic control arrangement will be arranged by the event sponsor with the Sheriff's Department.
 - 8. Serving of alcoholic beverages will not be permitted without a permit from the County.
 - 9. The event sponsors will provide private security, when required by the Sheriff's Department.
 - 10. These activities require the event sponsor to present satisfactory evidence to the Zoning Officer of liability insurance coverage for a minimum of \$100,000.00 for damage to or destruction of property arising out of a single occurrence; \$300,000.00 to any person for any number of claims arising out of a single occurrence for all damages other than property damage; and \$500,000.00 for all claims arising out of a single occurrence.

Section 5500 - Off-Street Parking

- A. Every building, or portion of a building, hereafter erected shall be provided with permanently maintained parking space as provided in this Section, and such parking space shall be made permanently available and be permanently maintained for parking purposes; provided, however, that any alterations, remodeling, reconstruction of existing building or additions providing less than five hundred (500) square feet of additional floor space shall be exempted from this requirement. Provided, further, that when an addition is made to an existing building, only the square feet in the addition need be used in computing the required off-street parking.
- B. The number of off-street parking spaces required shall be no less than as set forth in the table below.

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>
1. Automobile Courts (Motels)	one (1) space per sleeping unit or dwelling unit
2. Banks	one (1) space per four hundred (400) square feet of gross floor area
3. Bowling Alleys	four (4) spaces per lane
4. Churches	one (1) space per each six (6) seats or if there are no fixed seats, then one (1) space per one hundred (100) square feet of floor space used for assembly purposes
5. Dwellings	one (1) space per dwelling unit
6. Establishments for the sale and consumption on the premises of food and beverages	one (1) space per three (3) patron seats or one (1) space per one hundred (100) square feet of gross floor area
7. Furniture and appliance stores, hardware stores household equipment, service shops, clothing or shoe repair or personal service shop	one (1) space per six hundred (600) square feet of gross floor area
8. Hospitals	two (2) spaces per three (3) patient beds

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| 9. Hotels | one (1) space per room or suite, plus one (1) space per three (3) persons to the maximum capacity of each public meeting and/or banquet room plus fifty (50) percent of the spaces otherwise required for accessory uses. (e.g. restaurants, and bars) |
| 10. Industrial | one (1) space per 500 square feet of gross floor area |
| 11. Libraries and museums | one (1) space per 500 square feet of gross floor area |
| 12. Medical and dental clinics | one (1) space per 200 square feet of leaseable space |
| 13. Motor vehicle, machinery sales or wholesale stores | one (1) space per fifteen hundred (1500) square feet of gross floor area |
| 14. Offices | one (1) space per two hundred fifty (250) square feet of gross floor area |
| 15. Recreation or community center | one (1) space per two hundred fifty (250) square feet of gross floor area, or one space per four (4) patrons to the maximum capacity |
| 16. Recreational uses | one (1) space per four (4) patrons to the maximum capacity of the facility |
| 17. Retail stores, except as otherwise specified herein | one (1) space for each three hundred (300) square feet of selling floor area |
| 18. Rooming houses, lodging homes, clubs, and fraternity and sorority houses having sleeping rooms | one (1) space per sleeping room |
| 19. Sanitariums, children's homes, homes for the aged, asylums, nursing homes | one (1) space per six (6) patient beds |

20. Schools:

a. Elementary and junior high

two (2) space for each classroom, workshop, laboratory or office plus one (1) space per 200 sq. ft. of auditorium, gymnasium, and cafeteria

b. Senior high school

six (6) spaces for each classroom workshop, laboratory or office plus one (1) space per 200 sq. ft. of auditorium, gymnasium, and cafeteria

21. Stadiums, sports arena, auditorium, (including school auditoriums) and other places of public assembly and clubs and lodges having no sleeping quarters

one (1) space for each two (2) seats or one (1) space for each one hundred (100) square feet of gross floor area used for assembly.

22. Swimming pools

one (1) space per seventy five (75) square feet of gross water area

23. Theatres

one (1) space per three (3) persons based on maximum capacity

24. Transportation terminal facilities

adequate number of spaces to be determined by the Zoning Officer

25. Handicapped Parking

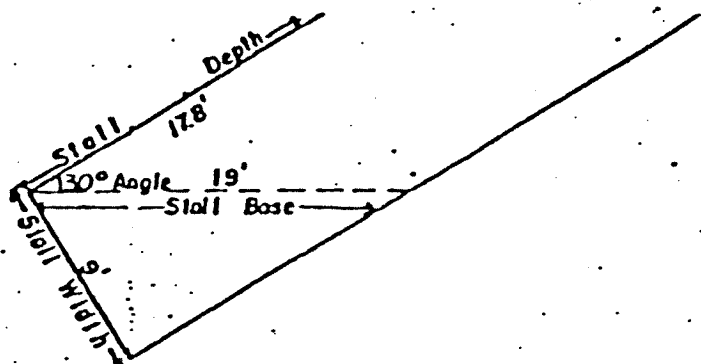
one (1) space shall be designated for disabled persons in any area of fifteen (15) or more spaces of off-street parking and shall be located so as to provide the most convenient access to entranceways or curb
Minimum spaces required are as follows:

<u>Total Spaces In Area</u>	<u>Minimum Designated For Disabled</u>
0-14	0
15-25	1
26-35	2
36-50	3
51-100	4
100 or more	4, plus 1 per each additional 100

C. Minimum Design Standards

1. Parking stalls and aisles shall be provided according to the following requirements in all districts for all uses above single family structures:

<u>Parking Angle</u>	<u>Stall Width</u>	<u>Stall Base</u>	<u>Stall Depth</u>	<u>Width of Aisles</u>	
				<u>1-Way Traffic</u>	<u>2-Way Traffic</u>
30	9'	19'	17.3'	11'	24'
45	9'	12.7'	19.8'	13'	24'
60	9'	10.4'	21.0'	18'	24'
90	9'	9'	19.'	24'	24'
Parallel Parking	9'	9'	23'	12'	24'



2. Ingress to and egress from required off-street parking areas shall be so designed as to eliminate any necessity of backing from said parking area onto any public right-of-way.
3. Circulation aisles within required off-street parking areas shall be so designed as to eliminate any necessity of vehicles entering a public right-of-way when passing from one aisle to another.
4. Unidirectional entrances and exits shall have a minimum width of 14 feet and combined entrance-exits shall have a minimum width of 26 feet.
5. All entrances, exits, aisles, and parking stalls shall be clearly marked.
6. Off-street parking areas shall be paved or otherwise surfaced and maintained so as to eliminate dust or mud and shall be graded and drained as to dispose of all surface waters.

7. Every parking area that is not separated by a wall or fence from any street or alley property line upon which it abuts, shall be provided with a concrete curb or timber barrier not less than 6 inches in height, located not less than 2 feet from such street or alley property lines, and such curb or barrier shall be securely installed and maintained provided no such curb or barrier shall be required across any driveway or entrance to such parking area.
8. Every parking area abutting property located in a residential area shall be separated from such property by a solid wall, view obscuring fence, or compact evergreen hedge.
9. Any lights provided to illuminate any parking area shall be so arranged as to reflect the light away from any lot upon which a dwelling unit is located.

Section 5600 - Off-Street Loading

Any use with a gross floor area of six thousand (6,000) square feet or more which requires deliveries or shipments must provide off-street loading facilities in accordance with the requirements specified below:

- A. Every retail establishment, industrial or manufacturing use, warehouse, wholesale use, freight terminal, railroad yard, hospital, or sanitarium shall provide off-street loading facilities as follows:

<u>Gross Floor Area in Square Feet</u>	<u>Number of Berths</u>
6,000-24,999	1
25,000-79,999	2
80,000-127,999	3
128,000-198,999	4
199,000-255,999	5
256,000-319,999	6
320,000-391,999	7

For each additional seventy-two thousand (72,000) square feet (or fraction thereof) of gross floor area, one (1) additional berth will be provided.

- B. Every public assembly use, such as auditoriums, sports arenas, restaurants, hotels, funeral homes, and stadiums shall provide off-street berths as follows:

<u>Gross Floor Area in Square Feet</u>	<u>Number of Berths</u>
6,000-29,999	1
30,000-119,999	2
120,000-197,999	3
291,000-389,999	4
390,000-488,999	5
489,000-587,999	6
588,000-689,999	7

For each additional one hundred five thousand (105,000) square feet (or fraction thereof) of gross floor area, one (1) additional berth will be provided.

- C. The minimum area for each off-street loading space, excluding area for maneuvering, shall be two hundred fifty (250) square feet.
- D. At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

Section 5700 - Airport Zoning Regulations

- A. These regulations are intended to protect the Las Vegas Municipal Airport and its environs from land uses and structures which would tend to destroy or impair the full utilization of the airport. Additionally, these regulations are intended to protect the public health, safety, and welfare from airport hazards.
- B. These regulations are adopted pursuant to Sections 3-21-1 and 3-39-9 of the New Mexico Municipal Code (NMSA 1978).
- C. Airport Zoning Districts established by this section are bounded and defined as shown on the Official Zoning Map, as adopted pursuant to Section 3200 of this Ordinance, and the Airport Zoning Maps prepared by Molzen-Corbin Associates in December 1985 for the Las Vegas Municipal Airport.
- D. In order to carry out the provisions of these regulations, there are hereby created and established certain zones which include all of the following:
1. Approach Zones - An approach zone is established at the ends of all runways on the Las Vegas Municipal Airport for landings and

take-offs. The approach zone shall be longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface and having a width of 5,000 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet at a slope of 20 feet horizontally, one (1) foot vertically beyond each end of the runway.

2. Transition Zones - Transition zones are hereby established adjacent to each runway and approach zones as indicated on the zoning map. Transition zones extend outward and upward at right angles to the runway centerline at a slope of seven (7) feet horizontally to one (1) foot vertically from the sides of the primary surface and from the side of the approach surfaces to the point where they intersect the surface of the horizontal zone or conical zone.
 3. Horizontal Zones - A horizontal zone is hereby established as the area within the perimeter of which is constructed by swinging arcs of a radius of 5,000 feet from the center of each end of the primary surface of each runway of the airport and connecting the adjacent arcs by lines tangent to those arcs. The horizontal zone does not include the approach zones, conical zones, and the transition zones.
 4. Conical Zones - A conical zone is hereby established as the area that commences at the periphery of the horizontal zones and extends outward therefrom at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical zone does not include the approach zones and transition zones.
 5. Composite Noise Rating Zone (CNR) 2 - A designated area over which the noise rating is between 110 and 115 CNR.
 6. Composite Noise Rating Zone (CNR) 3 - A designated area over which the noise rating exceeds 115 CNR.
- E. Land Use Schedule - Except when permitted by a variance issued by the Extraterritorial Zoning Commission:
1. No uses may be made of land within any zone established by these regulations in this section in such manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, take-off, or maneuvering of aircraft.

2. Any development which is proposed that is in more than one zone shall be limited to the more restrictive use.
 3. Compatible uses in CNR Zone 3 are as follows:
 - a. Open Space
 - b. Mining, fishing, and agricultural except mink and poultry production.
 - c. Golf courses, tennis courts, riding and hiking trails.
 4. Compatible uses in CNR Zone 2 are as follows:
 - a. All uses designated as compatible in CNR Zone 3.
 - b. Playgrounds and parks, including amusement parks.
 - c. Riding stables and cemeteries.
 - d. Retail and Commercial establishments.
 - e. Commercial establishments including wholesale manufacturing, transportation, communications and utilities, but excluding outdoor theatres and stadiums.
 - f. Other agriculture.
 - g. Hotels and motels, provided that construction techniques provide ten decibel extra noise reduction over the industry average for similar structures and that such reduction is certified by a qualified architect, structural engineer or acoustical engineer registered in the State of New Mexico and further provided that airport hazard insurance is purchased by said establishment.
- F. Height Limitations - Except as otherwise provided in this section, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by these regulations to a height in excess of the height limit established for each zone.
1. Approach Zone - One (1) foot in height for each 20 feet in horizontal distance beginning at a point 200 feet from and at the elevation of the end of the runway and extending to a point 5,200 feet from the end of the runway.
 2. Transition Zones - One (1) foot in height for each seven (7) feet in horizontal distance beginning at any point 250 feet normal to and at the elevation of the centerline of the runways

extending 200 feet beyond each end thereof, extending to a height of 150 feet above the airport elevation which is 6,874 feet above the mean sea level. In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edge of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal and conical surfaces.

3. Horizontal Zones - One hundred fifty (150) feet above the airport elevation or a height of 7,024 feet above mean sea level.
4. Conical Zone - One (1) foot in height for each twenty (20) feet of horizontal distance beginning at the periphery of the horizontal zones, extending to a height of 350 feet above the airport elevation.

Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail. Nothing in these regulations shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height of up to 200 feet above the surface of the land within a three (3) mile radius of the airport reference point, except as otherwise specified herein.

Section 5800 - Asphalt Batching, Gravel and Cement Plants, Permanent and Temporary:

All permanent or temporary asphalt batching, gravel and cement plants shall observe the regulations specified below.

- A. Each application shall be accompanied by a sketch plan at a scale of not less than one (1) inch equals one hundred (100) feet, showing the location of the facilities with the proper legal description and such other information as may be necessary to explain the proposed site and facilities operation.
- B. The applicant shall submit a written report outlining the reasons for placing the facilities in the particular location and stating the duration of time for which the applicant intends to operate the said facilities. The report shall also include a statement of the condition to which the site shall be restored after the operation is discontinued. Permission to locate and operate temporary facilities shall be granted for a period not to exceed six (6) months. An additional extension of time not to exceed six (6) months may be granted upon expiration of the time period initially granted if exceptional circumstances warrant it.
- C. All facilities, equipment, or materials on plant sites containing five acres or less shall be located no closer than one hundred (100) feet to the nearest public road and shall be located no closer than sixty (60) feet to any perimeter property lines and shall be located no closer than (200) feet to any existing residential dwelling in the case of a temporary facility and not closer than (300) feet to an existing residential dwelling in the case of a

permanent facility. For plant sites containing more than five acres, all the setbacks above shall be required cumulatively for each additional ten acres of plant site area or fraction thereof.

- D. All permitted materials shall be maintained in a neat and orderly manner and shall be covered and/or wet down regularly so as to prevent debris from leaving the area of the site.
- E. Routes of supply vehicles or material handling vehicles shall be arranged so as to minimize nuisances or hazards to residential neighborhoods or commercial businesses.
- F. The Commission may limit the time of day during which the facility may be operated; and may make such further conditions as would protect the public health, safety, morals and welfare.
- G. If the facility is temporary, the Commission shall require a performance bond or surety bond conditional upon the removal of the facility and restoration of the site to an acceptable condition as provided in the statement under subsection "B" above, such statement to be approved by the Commission at the time specified by the Commission.

ARTICLE VI - NON-CONFORMITIES

Section 6000 - Purpose

It is the purpose of this article to provide for the regulation of legally non-conforming structures, lots, and uses and to specify conditions under which such non-conformities shall be permitted to continue.

Section 6001 - Authority to Continue

- A. Except as otherwise provided in this article any non-conformity lawfully existing at the time this Ordinance became effective may continue so long as it remains otherwise lawful.
- B. No non-conformity shall be enlarged upon, or expanded unless such alteration is in full compliance with all requirements of this Ordinance. Normal maintenance and incidental repair of a legal non-conformity shall be permitted, provided that this does not violate any other section of this Ordinance.
- C. No accessory use to a principle non-conforming use or structure shall continue after such principle use or structure shall have ceased or terminated, unless it shall thereafter conform to all regulations of this Ordinance.
- D. In the event that any non-conforming use or structure is destroyed by any means to the extent of more than fifty (50) percent of the cost of replacement, such use or structure shall not be rebuilt, restored, or reoccupied for any purpose unless it shall thereafter conform to all regulations of this Ordinance.
- E. Non-Conforming Uses In An Airport Zone

These regulations shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date thereof, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these regulations and is diligently pursued.

Notwithstanding the preceding provision of this section, the owner of any non-conforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Las Vegas Municipal Airport to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and

Lights shall be installed, operated and maintained at the expense of the Las Vegas Municipal Airport, and shall conform to the current Federal Aviation Administration, Advisory Circular 70/7460-1 and subsequent revisions.

1. Future Uses - Except as specifically provided in Paragraphs a, b, and c hereunder, no material change shall be made in the use of the land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

a. In the area lying within the limits of the horizontal zone and the conical zone but not within the limits of an approach zone or transition zone, no permit shall be required for any tree or structure less than 50 feet of vertical height above the ground except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such a zone.

b. In the areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 50 feet of vertical height above the established airport elevation, except when such tree or structure would extend above the height limit prescribed for such instrument on non-instrument approach zone.

c. In the areas lying within the limits of the conical zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than 50 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic feature would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by these regulations except as set forth in Section 5700, paragraph E.

2. Existing Uses - No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of these regulations or any amendments thereto or than it is when the application for permit is made.

3. Non-conforming Uses Abandoned or Destroyed - Whenever the City of Las Vegas determines that a non-conforming structure or tree has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
4. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with these regulations, may apply to the Extraterritorial Zoning Commission for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of these regulations.
5. Hazard Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of these regulations and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or trees in question at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard and shall conform to the current Federal Aviation Administration Advisory Circular 70/7460-1 and subsequent revisions.

ARTICLE VII - ADMINISTRATION AND ENFORCEMENT

Section 7000 - Purpose

This article specifies the requirements for amendments, variances, administrative appeals, and interpretations of this Ordinance. Also, the powers and duties of officers and boards insofar as administration of this Ordinance are also delineated in this article.

Section 7001 - Zoning Officer: Duties and Powers

The Zoning Officer shall be appointed by the Extraterritorial Zoning Commission with the concurrence of the Governing Body administering the Ordinance and shall have the following powers and responsibilities:

- A. Receive and review all required submissions for proposed zoning amendments and prepare reports to the Commission and Authority.
- B. Process zoning amendments, conditional use permits, and variances for all uses.
- C. Following refusal of a permit, receive applications for interpretation and appeals and forward same to the Commission.
- D. Record and file all applications with accompanying plans and documents.
- E. Maintain official zoning map.
- F. Review and examine all applications for building permits.
- G. Conduct inspections to determine compliance or non-compliance with terms of this Ordinance.
- H. Institute any appropriate action or proceedings to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.

Section 7002 - Duties of the Extraterritorial Zoning Commission

- A. The Commission shall conduct public hearings, study, report, and make recommendations on all proposed amendments to the text of this Ordinance.
- B. The Commission shall hear and decide appeals where it is alleged there is error in any order requiring decisions or determinations made by the Zoning Officer in the enforcement of this Ordinance.

- C. The Commission shall hear and decide all petitions for variances.
- D. The Commission shall hear and decide all applications for conditional use permits.
- E. The Commission shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Ordinance.

Section 7003 - Amendments

- A. This Ordinance may be amended from time to time as conditions warrant in the following manner:

- 1. The verified application of one (1) or more owners of property proposed to be changed or reclassified.
- 2. Resolution of intention by the Extraterritorial Zoning Authority.
- 3. Resolution of intention by the Extraterritorial Zoning Commission.

- B. Procedures:

- 1. ~~An application for amendment to the zoning ordinance shall be filed by a petitioner to the Extraterritorial Zoning Commission.~~
- 2. ~~Applications for amendments to the zoning ordinance shall be accompanied by:~~
 - a. ~~Legal description of the property.~~
 - b. ~~Plat plan drawn to scale showing location of structures.~~
- 3. A fee of one hundred (100) dollars shall be paid to the Zoning Officer as established by the Joint Powers Agreement. Said fee shall be for the purpose of defraying the expense of postage, posting, advertising and other costs incidental to the proceedings prescribed herein.
- 4. All applications for zone changes shall be heard by the Extraterritorial Zoning Commission at a public hearing to be held not less than fifteen (15) days or more than sixty (60) days from the time of the filing of the application.
 - a. Notification of time and place of hearing of public hearings shall be given by publication of notice in newspaper of general circulation in the area not less than fifteen (15) days prior to such hearing; and

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- b. By posting of the signs on the subject property within twenty (20) feet of adjacent public right-of-way, and in a frequency of not less than one (1) sign every three hundred (300) feet; and
 - c. By first class mail to the owners of property within one hundred (100) feet, excluding public right-of-way, of the proposed zone change.
- 5. Not more than forty (40) days following completion of its public hearing on an application for amendment, the Extraterritorial Zoning Commission shall file a written finding of facts recommending denial or approval of the zone change to the Extraterritorial Zoning Authority. Failure of the Commission to act on the zone change within said forty (40) days shall be deemed to be the recommendation of approval to the Authority.
 - 6. Within thirty (30) days following the receipt of recommendation for or against approval, the Authority shall conduct a duly advertised public hearing, public notice of which is given in the same manner as provided in Subsection 4 of this Section.
 - 7. The Authority shall announce its findings and decisions by ordinance not more than twenty (20) days following the hearing. This decision shall be final and conclusive, provided that in cases where the Commission's actions were to recommend denial of a zone change, the Authority votes to grant the zone change by a majority vote.
 - 8. Not later than ten (10) days following the adoption of the order, approving or denying the zone change, the applicant or opponents, and the Commission shall be notified in writing of the Authority's order.
 - 9. No re-application for a zone change which has been denied shall be filed earlier than six (6) months after the date of such denial. Any re-application shall be considered as a new application and require a new filing fee.

Section 7004 - Conditional Use Permits and Variances

- A. Conditional Uses are those uses which have special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.
- B. The purpose of this section is to empower the Extraterritorial Zoning Commission to vary or adopt the strict application of any of

the requirements of this Ordinance. A variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional conditions on a piece of property, the strict application of any regulation enacted under this Ordinance would result in undue hardship on the owner of such property.

C. Procedures

1. An application for a Conditional Use Permit or Variance shall be filed by a petitioner with the Zoning Officer.
2. Applications for a Conditional Use Permit or Variance shall be accompanied by:
 - a. Legal description of the property;
 - b. Plat plan drawn to scale showing location of structures and land uses.
3. A fee of fifty ~~(100)~~ ⁽⁵⁰⁾ dollars shall be paid to the Zoning Officer. Said fee shall be for the purpose of defraying the expense of postage, posting, advertising and other costs incidental to the proceedings prescribed herein.
4. All applications for Conditional Use Permits or Variances shall be heard by the Commission at a hearing to be held not less than fifteen (15) days or more than sixty (60) days from the time of the filing of the application.
 - a. Notification of time and place of public hearings shall be given by publication of notice in a newspaper of general circulation in the area not less than fifteen (15) days prior to such hearing; and
 - b. By posting of the signs on the subject property within twenty (20) feet of adjacent public right-of-way; and
 - c. By first class mail to the owners of property within one hundred (100) feet, excluding public right-of-way, of the area proposed as a Conditional Use.
5. Not more than forty (40) days following completion of its hearing on an application for a Conditional Use Permit or Variance, the Commission shall by resolution list the criteria used and the findings of facts for granting or denying the Conditional Use Permit or Variance. Failure of the Commission to act on a permit within said forty (40) days shall be deemed to be approval of the application.

6. The order of the Commission in granting or denying a Conditional Use Permit or Variance shall become effective ten (10) days after the rendering of its resolution unless within such ten (10) days period, an appeal in writing is filed with the Extraterritorial Zoning Authority by either the applicant or an opponent. The filing of such an appeal within such time limit shall stay the effective date of the Commission until such time as the Authority has acted on the appeal as hereinafter set forth in this Article.
7. Within thirty (30) days following the receipt of the written appeal, the Authority shall conduct a duly advertised public hearing, public notice of which is given in the same manner as provided in Subsection D of this Section.
8. The Authority shall announce its findings and decisions by resolution not more than twenty (20) days following the hearing. This decision shall be final and conclusive on such appeal, provided that in cases where the Commission's actions were to deny a Conditional Use Permit or Variance, the Authority votes to grant the permit by a majority vote.
9. Not later than ten (10) days following the adoption of the order, approving or denying the Conditional Use Permit or Variance, the applicant or opponents, and the Commission shall be notified in writing of the Authority's order.
10. No re-application for a Conditional Use Permit or Variance which has been denied shall be filed earlier than six (6) months after the date of such denial. Any re-application shall be considered as a new application and require a new filing fee.

ARTICLE VIII - INTERPRETATION, PENALTIES, SEVERABILITY

Section 8001 - Interpretation

In their interpretation and application, provisions of this Ordinance shall be held to be minimum requirements.

Section 8002 - Penalties

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this Ordinance shall be guilty for each violation of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars (\$500), or by imprisonment in the county jail for a term not exceeding six (6) months, or by both fine and imprisonment. Each day a violation continues after conviction shall be prosecuted and treated as a separate offense and shall be punishable as herein provided.

Section 8003 - Judicial Review

Judicial Review may be had as provided in and under and pursuant to NMSA 1978 compilation, 3-39-23, Subsections A, B, C, D, and E.

Section 8004 - Severability

If any section, subsection, sentence, or phrase of this Ordinance is for any reason held by a court of jurisdiction, to be invalid, such a decision shall not effect the validity of the remaining portions of this Ordinance.