

TORRANCE COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2024-04

TORRANCE COUNTY ZONING ORDINANCE AMENDMENTS

WHEREAS, the current version of the Torrance County Zoning Ordinance was last revised in 2020; and,

WHEREAS, substantially identical to the original version passed in 1990, it did not adequately address Commercial Greenhouse operations; and,

WHEREAS, the 2020 version of the Torrance County Zoning Code did not directly address full time living in RV's; and,

WHEREAS, substantially identical to the original version passed in 1990, clarification was needed regarding private cemeteries; and,

WHEREAS, substantially identical to the original version passed in 1990, clarification was needed regarding fence and wall requirements: and,

WHEREAS, substantially identical to the original version passed in 1990, clarification was needed regarding residential and commercial kennels.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF TORRANCE COUNTY, NEW MEXICO that the Torrance County Zoning Ordinance of 1990, last revised July 8, 2020 is hereby amended to read:

T O R R A N C E C O U N T Y
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**ZONING ORDINANCE
FOR
TORRANCE COUNTY, STATE OF NEW MEXICO**

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING
REGULATIONS AND A ZONING MAP FOR THE UNINCORPORATED
AREAS OF TORRANCE COUNTY, NEW MEXICO; AND PROVIDING
FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT
THEREOF.

SECTION 1. TITLE.

These regulations shall be known as the "TORRANCE COUNTY ZONING ORDINANCE" and shall be referred to herein as "this Ordinance".

SECTION 2. PURPOSE.

The provisions of this Ordinance are designed to promote health and the general welfare of the County; to secure safety from fire, flood, and other dangers; to protect local water resources; to facilitate adequate provisions for transportation, solid waste management, water and wastewater systems, schools, parks and other community requirements; to conserve the value of property; and to provide for the compatible development of land and other natural resources in the County. This Ordinance shall be interpreted to be in accordance with the current Torrance County Comprehensive Land Use Plan.

[REV: Ord. No. 95-4, 6/10/95; Ord. No. 2008-003, 4/23/08]

SECTION 3. JURISDICTION.

This Ordinance shall apply to all or any portion of the territory within the County that is not within the zoning jurisdiction of an incorporated municipality or any joint municipal-county extraterritorial zoning authority, and is not held in trust or ownership by the Federal Government or the State of New Mexico. Boundaries delineating the zoning jurisdiction of the County shall be as indicated on the adopted "Torrance County Zoning Map" and amendments hereto, which are made a part of this Ordinance as if described herein.

9. "County" means Torrance County, New Mexico.
10. "County Commission" means the Board of County Commissioners of Torrance County, New Mexico.
[REV: Ord. No. 2008-003, 4/23/08]
11. "Dwelling Unit" means a structure or part of a structure containing one or more connected rooms designed for and occupied by no more than one family for living and sleeping purposes.
12. "Dwelling Unit, Singular" means a dwelling unit which is not physically connected to any other dwelling unit.
13. "Dwelling Unit, Multiple" means a structure containing two or more dwelling units.
14. "Dwelling Unit, Cluster" means a development pattern consisting of a grouping of dwelling units on a portion of available land, reserving not less than 40 percent of the development site as protected and permanent open space.
[REV: Ord. 2008-003, 4/23/08]
15. "Family" means one or more persons living together in a dwelling unit, provided that unless all members are related by blood, marriage, adoption, or legal assignment, no such family shall include or contain more than 5 unrelated persons.
16. "Feedlot" means a place for cattle, sheep, swine, or other such animals, which are restricted and confined to pens or corrals where feeding is other than grazing and which is operated as a year-round enterprise. For purposes of this Ordinance, a Small Feedlot shall contain from 20 to 200 head of animals, and a Large Feedlot shall contain more than 200 head of animals. A Small Feed lot shall be centered on at least 100 acres. A Large Feedlot shall not be allowed, except in a special use zone.
[REV: Ord. No. 2008-003, 4/23/08]
17. "Flea Market" means an occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public. A flea market shall not include temporary residential garage sales lasting no more than three days per six-month period, and seasonal agricultural produce stands.
[REV: Ord. No. 94-2, 2/9/94]
18. "Floor Area" means the total area of all floors of a building.
19. "Floor Area Ratio" means the relationship of the floor area to the lot area, computed by dividing the floor area by the lot area.

25. "Liquid Waste Disposal Regulations" means the Liquid Waste Disposal Regulations adopted by the Environmental Improvement Board of New Mexico and administered by the New Mexico Environment Department.
26. "Livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch, including the carcasses thereof, and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, ostriches, emus, rheas, camelids and farmed cervidae (deer). For purposes of determining the number of livestock on a lot, one (1) horse or cow equals three (3) goats or three (3) sheep or combination thereof.
[REV: Ord. No. 2008-003, 4/23/08]
27. "Lot" means a parcel of real property described by deed, or a tract of land described by metes and bounds on a plat and recorded in the County Clerk's records in accordance with appropriate laws, and with access to public right-of-way.
[REV: Ord. No. 2001-2, 3/14/01; Ord. No. 2008-003, 4/23/08]
28. "Mobile Home" (also known as Manufactured Housing) means a transportable structure, at least 8 feet by 32 feet, built to be towed on its own chassis, and designed to be used as a movable dwelling unit for connection to permanent utilities.
29. "Mobile Home Park" means an un-platted tract of land under one ownership on which spaces are leased or rented for occupancy for 30 days or more by mobile homes, and which contains a centralized system of connections for utility services.
[REV: Ord. No. 95-5, 6/10/95]
30. "Nonconformities" are any structures or portions thereof, or uses of any land or structures, or lots which do not conform to the regulations of this Ordinance but which lawfully exist on the effective date of the regulations to which it does not conform.
31. "Permissive Use" means a use which is allowed in a particular zone district.
32. "Poultry" means domestic fowl, such as chickens, turkeys, ducks, and geese, but does not include any animal defined as livestock.
[REV: Ord. No. 2008-003, 4/23/08]
33. "Premises" means any lot or combination of contiguous lots held in single ownership, together with the development thereon.
34. "Recreational Vehicle" means a vehicle which is designed or used as temporary living quarters for recreation, camping, or travel and which may be a self-propelled motor vehicle or designed to be towed or mounted on a motor vehicle.

42. "Shopping Center" means an integrated retail commercial development occupying a site of 3 or more acres under a single ownership, control or interest, and containing 5 or more connected stores or a total gross floor area in a single structure which is greater than 25,000 square feet.
43. "Structure" means anything constructed, placed, or erected on the ground or which is attached to something located on the ground. For purposes of this Ordinance, the term "structure" does not include vehicles, vegetation, or public utility poles.
44. "Supplemental Residential Dwelling Unit" means a secondary or auxiliary structure used for residential purposes on land not within a previously approved subdivision for use by family members or guests and which may not be leased or rented.
[REV: Ord. No. 2001-2, 3/14/01]
45. "Temporary" For purposes of this Ordinance temporary constitutes 60 days or less.
[REV: Ord. No. 2020-06, 7/8/20]
46. "Travel Trailer or Recreational Vehicle Park" means an area of land used for transient commercial parking of occupied travel trailers, pick-up campers, converted buses, recreational vehicles, tents, or any other similar devices used for temporary portable housing.
47. "Variance" means a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results or actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary hardship. As used in this Ordinance, a variance may be authorized only for area, height, dimension, distance, setback, walls, off- street parking, and off- street loading requirements. Financial gain or loss shall not be the only determining factor in deciding a variance.
48. "Wall" means a solid wall or fence which is visually solid, or a suitable screen of landscaping intended to provide a visual barrier. Materials used in the construction of a wall or fence shall not pose health or safety hazards to the community and shall not be disruptive to the character of surrounding properties.
[REV: Ord. No. 94-2, 2/9/94]
- a. For purposes of this Ordinance plastic sheeting materials or mesh shall not constitute an acceptable visual barrier.
[REV: Ord. No. 2020-06, 7/8/20]

1. Request for Interpretation. Any request for an interpretation of a use of land not specifically listed herein shall be submitted to the Zoning Board through the Zoning Director. The Zoning Director may create forms for such an application.
2. Following the receipt of a request for interpretation of land use, the Zoning Board shall recommend an interpretation of land use for the applicant at their next scheduled meeting. The Zoning Board recommendation shall be transmitted to the County Commission for consideration at the next scheduled Commission meeting. The County Commission shall approve, deny, or modify the Zoning Board's recommended interpretation.
3. The interpretation of land use shall be documented and a letter summarizing the interpretation shall be mailed to the applicant, and shall explain the reasons upon which the interpretation is based.
4. Guidelines. Interpretations shall be governed by the following conditions:
[REV: Ord. No. 2008-003, 4/23/08]
 - a. No use interpretation shall allow the establishment of any use which was previously considered and rejected by the County Commission.
 - b. No use interpretation shall permit any use in a zone district that is not in accordance with the stated intent for that zone district.
 - c. No use interpretation shall permit any use in a particular zone district unless that use is substantially similar to other uses permitted in that zone district.
 - d. If the proposed use is more similar to an identified conditional use in a zone district, then any use interpretation shall specify conditional use requirements in accordance with this Ordinance.
 - e. Any use that is allowed by right or as a conditional use following a use interpretation shall comply with all standards and requirements imposed by this Ordinance.

SECTION 6. GENERAL PROVISIONS

- A. Access to Structures. All structures shall be located such that safe and convenient access is provided for use of the structure, fire protection, and any required off-street parking or loading.
- B. Height Regulations. Any structure may not exceed 80 feet in height unless granted a variance in accordance with this Ordinance. This restriction does not apply to public utility poles.
[REV: Ord. No. 94-2, 2/9/94; Ord. No. 2008-003, 4/23/08]

2. No more than three (3) non-resident employees shall be stationed on the premises,
3. There shall be no exterior storage of materials unless completely enclosed by a six (6) foot wall,
[REV: Ord. No. 2020-06, 7/8/20]
4. No equipment or process shall be used in a home occupation which creates a nuisance such as noise, vibration, lighting, fumes, odors, or electrical interference detectable to the normal senses off the premises,
5. If there is an occasional requirement to park additional vehicles or to provide temporary outside storage of equipment or materials on the premises, then such arrangements or conditions shall be stated fully on the permit application,
6. There shall be no sales or traffic in connection with a home occupation that would disrupt the residential nature of the neighborhood, and
7. There shall be no change in the outside appearance of the building, or other visible evidence of the conduct of a home occupation other than one (1) unobtrusive sign not to exceed six (6) square feet in size.

F. Non-Commercial Cemetery. A parcel used as a Non-Commercial Cemetery, such as a family burial ground, shall be at least 5 acres in area.
[REV: Ord. No. 2008-003, 4/23/08]

G. Public Utility Structure. Excluding towers for cell phone communications, electrical power lines, and telephone communications, a parcel used for essential public utility distribution structures or for communication structures or facilities shall be at least 5 acres in area.
[REV: Ord. No. 2008-003, 4/23/08]

H. Kennels. Kennels are subject to the Torrance County Animal Control Ordinance and the following minimum standards:
[REV: Ord. No. 2008-003, 4/23/08]

1. Minimum lot size for a Residential kennel shall be one (1) acre,
[REV: Ord. No. 2020-06, 7/8/20]
2. Minimum lot size for a Commercial kennel shall be five (5) acres,
[REV: Ord. No. 2020-06, 7/8/20]
3. All animals shall be contained on the premises in a manner that prevents escape of kennel animals or entry by other animals,
4. All animal containment structures, including outdoor runs, shall maintain a setback of no less than 50 feet from any property line.

SECTION 8.0. CONSERVATION DISTRICT (C).

A. Intent. This zone protects and preserves areas within the County which are characterized by their limited access, minimal development, limitations on water resources, natural beauty, fragile environment and native wildlife populations. Dispersed, very low density residential development and low intensity agricultural activities are allowed. Other agriculturally related activities may be allowed. Commercial uses will not be allowed except on a case by case basis in which the primary concern of the Zoning Board will be to minimize the environmental impact on the area. Development may be considered within a 1 mile buffer zone where the "C" Zone joins an incorporated municipality and density or minimum lot size or use within the buffer area may be dictated by the standards set for the adjoining area.

[REV: Ord. No. 95-11, 11/10/95; Ord. No. 97-2, 3/26/97; Ord. No. 2008-003, 4/23/08]

B. Permissive Uses. Any of the following permissive uses are allowed in this zone district:

1. Low intensity agricultural operations such as livestock grazing and related ranching activities;

[REV: Ord. No. 95-5, 6/10/95; Ord. No. 95-11, 11/10/95]

2. Horse breeding, boarding and training;

3. Other low intensity production agriculture;

4. Cultivation and harvesting of plants and croplands;

5. Wood cutting and other activities related to harvesting trees;

6. Singular residential dwelling unit provided it is in compliance with the requirements of the New Mexico Liquid Waste Disposal Regulations; and

7. Accessory uses and structures necessary to carry out the above listed permissive uses.

8. Kennel, subject to the regulations of the Torrance County Animal Control Ordinance and provisions listed under Section 6 of this ordinance.

[REV: Ord. No. 95-11, 11/10/95; Ord. No. 2001-2, 3/14/01]

C. Conditional Uses. The following uses may be allowed in this district only upon permit granted by the Zoning Board:

1. Home occupations provided they are confined to the residence or accessory structure, are clearly a secondary use of the structure and present no visual impact to neighbors as viewed from adjoining property or public thoroughfare;

- c. A parcel where a cemetery is to be placed shall be at least 5 acres in area.
[REV: Ord. No. 98-5, 9/13/98; Ord. No. 2008-003, 4/23/08; Ord. No. 2020-06, 7/8/20]
 - d. Excluding towers for cell phone communications, electrical power lines, and telephone communications, a parcel used for essential public utility distribution structures or for communication structures or facilities shall be at least 5 acres in area.
[REV: Ord. No. 90-4, 6/12/99; Ord. No. 2008-003, 4/23/08]
 - e. One supplemental residential dwelling unit is allowed on a parcel meeting district minimum standards. If a parcel is at least eighty acres or a 1/8 section in area, then up to two supplemental residential dwelling units are allowed on such a parcel.
[REV: Ord. No. 2001-2, 3/14/01; Ord. No. 2008-003, 4/23/08]
2. In the event contiguous parcels within the zone are assembled, any of which may be less than the smaller of forty acres or 1/16 section, no future land division of that assembled parcel will be allowed, except as noted in paragraph 8.0.C.1.b. & c. supra, if any portion of the land division will result in a parcel of less than forty acres or 1/16 section. It is the intent of these standards to restrict parcel size within this zone to a minimum of forty acres or 1/16 section and where possible to reassemble smaller existing parcels into larger parcels more closely approaching the forty acre, 1/16 section minimum.
[REV: Ord. No. 2008-003, 4/23/08]
 3. This change will not affect any subdivision plans which have been submitted to the Zoning Board prior to the effective date of this section.
[REV: Ord. No. 95-11, 11/10/95; Ord. No. 2008-003, 4/23/08]
 4. A proposed land use must comply with Section 23, pertaining to water usage.
[REV: Ord. No. 97-7, 6/27/29]
 5. Commercial Greenhouse operations are prohibited in this zone.
[REV: Ord. No. 2020-06, 7/8/20]

SECTION 8.1 AGRICULTURAL DISTRICT (A).

- A. Intent. This zone district is intended to preserve large areas of land traditionally used for farming and ranching operations and other agricultural uses. This district is characterized by arid rangeland, extreme limitations on water resources and minimal development. The standards prescribed for this district are intended to preserve the traditional uses of the land and thereby protect the business of agriculture and related work. Development may be considered within a 1 mile buffer zone where the "A" Zone joins another zone district and density or minimum lot size or use within the buffer area may be dictated by the standards set for the adjoining area.
[REV: Ord. No. 95-11, 11/10/95]

7. Essential public utilities distribution structures.
[REV: Ord. No. 95-11, 11/10/95]
8. Communication structures and facilities;
[REV: Ord. No. 90-4, 6/12/99]
9. One supplemental residential dwelling unit allowed on a parcel meeting district minimum standards, 2 supplemental residential dwelling units allowed on a parcel of at least eighty acres or 1/8 section.
[REV: Ord. No. 2001-2, 3/14/01]
10. A Small Feedlot centered on at least 100 acres. A Feedlot is subject to the following requirements:
 - a. Areas devoted to livestock shall be maintained to discourage the concentration and breeding of insects and rodents that are detrimental to human habitation; and
 - b. It shall be unlawful for an owner or keeper of livestock to allow livestock to run at large on public rights-of-way.
[REV: Ord. No. 2001- 2, 3/14/01]

D. District Standards. The following standards apply to all land uses within this zone district:

1. Minimum parcel size will be 40 acres or 1/16 section, whichever is the smaller of the two, with the following exceptions:
 - a. Parcels smaller than the minimum parcel size which existed on the effective date of these standards shall be allowed to remain and may be transferred at a future date by sale, inheritance or other legal means provided that such parcels are not divided into smaller parcels except as may be allowed by Section 8.1.C.1.b. regarding collateral for a mortgage. These non-conforming parcels may be reconfigured through legal means of survey so long as the resulting parcel is not smaller than the original parcel.
 - b. Lending institutions may accept as collateral for a mortgage of a home on the property in question, any portion of that property provided it is not less than five acres in size, with the understanding and knowledge that they can take legal title to and resell such smaller portion of land on which the mortgaged home exists in the event the mortgagee defaults on the mortgage. The lending institution is otherwise bound by the minimum parcel size standards provided herein. Once the mortgage is released, the land division shall automatically be vacated. A statement reflecting the requirement of such automatic vacation shall appear on the plat showing the land division.
[REV: Ord. No. 2001-2, 3/14/01]

- a. AP-5 districts have the following restrictions on the number of livestock used as pleasure animals or animals for personal use according to lot size; minimum 1 acre: No more than one (1) horse or one (1) cow or an equivalent number of sheep or goats.
 - b. Equivalency is determined as one (1) horse or cow equals three (3) goats or three (3) sheep or combination thereof.
 - c. Additional livestock units allowed is based upon one (1) horse or cow unit per each additional acre of land.
 - d. Exception: Livestock including pigs temporarily raised for educational purposes by children belonging to a recognized organization such as 4H or Future Farmers of America.
4. Kennel, subject to the regulations of Torrance County Animal Control Ordinance and provisions listed under Section 6 of this ordinance.

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Zoning Board:

- 1. One supplemental residential dwelling unit allowed on a parcel meeting district minimum standards; in the AP-5 and AP-10 zone districts, a temporary supplemental residential dwelling unit may only be used so that reasonably necessary medical or other care-taking services may be provided by a resident of the other on-site residential dwelling unit; in the AP-40 zone district, 2 supplemental residential dwelling units allowed on a parcel of at least eighty acres or 1/8 section.
[REV: Ord. No. 2001-2, 3/14/01]
- 2. Home occupation, subject to the following provisions:
[REV: Ord. No. 95-5, 6/10/95]
 - a. Not more than 40 percent of the floor area of the dwelling unit, nor more than 800 square feet of an accessory building, shall be used in the conduct of the home occupation,
 - b. No more than three (3) non-resident employees shall be stationed on the premises,
 - c. There shall be no exterior storage of materials unless completely enclosed by a wall,
 - d. No equipment or process shall be used in a home occupation which creates a nuisance such as noise, vibration, lighting, fumes, odors, or electrical interference detectable to the normal senses off the premises,

D. District Standards. The following standards apply to all land uses within this zone district:

1. Minimum lot size shall be five acres where identified as AP-5 on the Zoning Map, ten acres where identified as AP-10 on the Zoning Map, and forty acres where identified as AP-40 on the Zoning Map; a parcel used for essential public utility distribution structures or for communication structures or facilities may be 5 acres or larger, with the following exceptions:
[REV: Ord. No. 99-1, 4/10/99; Ord. No. 2001-2, 3/14/01; Ord. No. 2008-003, 4/23/08]
 - a. Parcels smaller than the minimum parcel size that existed on the effective date of these standards shall be allowed to remain and may be transferred at a future date by sale, inheritance or other legal means provided that such parcels are not divided into smaller parcels except as may be allowed by Section 9.C.1.b. regarding collateral for a mortgage. These non-conforming parcels may be reconfigured through legal means of survey so long as the resulting parcel is not smaller than the original parcel.
[REV: Ord. No. 2008-003, 4/23/08]
 - b. Lending institutions may accept as collateral for a mortgage of a home on the property in question, any portion of the property provided it is not less than five (5) acres in size, with the understanding and knowledge that they can take legal title to and resell such smaller portion of land on which the mortgaged home exists in the event the borrower defaults on the mortgage. The lending institution is otherwise bound by the minimum parcel size standards provided herein. Once the mortgage is released, the land division shall automatically be vacated. A statement reflecting the requirement of such automatic vacation shall appear on the plat showing the land division.
 - c. A parcel where a cemetery is to be placed shall be at least 5 acres in area.
[REV: Ord. No. 98-5, 9/13/98; Ord. No. 2008-003, 4/23/08; Ord. No. 2020-06, 7/8/20]
2. AP-5 districts have the following restrictions on the number of livestock used as animals for personal use according to lot size:
[REV: Ord. No. 2008-003, 4/23/08]
 - a. On lots that do not conform to the district minimum standard but are at least 1 acre in area, there shall be no more than one (1) horse or one (1) cow or an equivalent number of sheep or goats.
 - b. On lots that exceed the district minimum standard for acreage, additional livestock units are allowed based upon one (1) horse or cow unit per each additional acre of land.

2. In the event that contiguous lots within a specified area are assembled for readjustment and a master plan or site plan for future development is proposed, then such area shall be subject to the setback requirements established for the RR zone district.
[REV: Ord. No. 95-5, 6/10/95]
3. A proposed land use must comply with Section 23, pertaining to water usage.
[REV: Ord. No. 97-7, 6/27/97]
4. Commercial Greenhouse operations are prohibited within this zone.
[REV. Ord. No. 2020-06, 7/8/20]

SECTION 11. RURAL RESIDENTIAL DISTRICT (RR).

A. Intent. This zone district accommodates rural residential development and certain agricultural uses such as irrigated croplands and limited livestock management. Large-lot residential land subdivision is characteristic of this district.

B. Permissive Uses. Any of the following permissive uses are allowed in this zone district:

1. One singular dwelling unit per lot subject to the provisions of Section 19 (F) of this Ordinance;
2. Accessory uses and structures;
3. Cultivation and harvesting of croplands;
4. Raising, breeding, and sales of livestock, subject to the following requirements:
 - a. Areas devoted to livestock shall be maintained to discourage the concentration and breeding of insects and rodents which are detrimental to human habitation, and
 - b. It shall be unlawful for any owner or keeper of livestock to allow such livestock to run at large on public right-of- way;
 - c. Such land use shall not constitute a Feedlot and the number of livestock on the parcel shall not exceed an average density of one head per two acres.
[REV: Ord. No. 2001-2, 3/14/01]
 - d. This does not apply to pleasure animals or animals for personal use which are subject to the following restrictions on numbers according to lot size;

- f. There shall be no sales or traffic in connection with a home occupation that would disrupt the residential nature of the neighborhood, and
 - g. There shall be no change in the outside appearance of the building, or other visible evidence of the conduct of a home occupation other than one (1) unobtrusive sign not to exceed six (6) square feet in size;
2. Religious and educational institutions;
 3. One temporary supplemental residential dwelling unit allowed on a parcel meeting district minimum standards so that reasonably necessary medical or other care-taking services may be provided by a resident of the other on-site residential dwelling unit;
[REV: Ord. No. 2001-2, 3/14/01]
 4. Essential public utility distribution structures;
 5. Boarding, rooming, or lodging house for no more than 12 residents;
[REV: Ord. No. 2001-2, 3/14/01]
 6. Residential group training home for developmentally or physically handicapped, and residential nursing home, providing for no more than 12 persons at any one time; and
[REV: Ord. No. 2001-2, 3/14/01]
 7. Day care or child care services as regulated by the New Mexico Children Youth and Families Department.
[REV: Ord. No. 2001-2, 3/14/01]
 8. Kennel, Commercial or Foster/Rescue, subject to the regulations of the Torrance County Animal Control Ordinance and provisions listed under Section 6 of this ordinance.
[REV: Ord. No. 2008-003, 4/23/08]

D. District Standards. The following standards apply to all land uses within this zone district:

1. Minimum lot size shall be two and one-half acres for dwelling units served by individual private wells, and one acre for dwelling units with connections to a centralized water system. For purposes of determining minimum lot size, the calculation of acreage shall include common easements and private roadways for ingress and egress for adjoining lots. A shared domestic well permitted under Section 72-12-1 NMSA 1978 does not qualify as a "centralized water system."
[REV: Ord. No. 2001-2, 3/14/01; Ord. No. 2008-003, 4/23/08]

SECTION 12. MINOR DEVELOPMENT DISTRICT (D-1).

A. Intent. This zone district provides for commercial and business uses intended to serve the surrounding neighborhoods on a day-to-day basis including retailing and personal services. Development in this zone district shall be characterized as low intensity or small-scale, and shall not be detrimental to nearby residential uses.

[REV: Ord. No. 95-9, 10/13/95]

B. Permissive Uses. Any of the following permissive uses are allowed in this zone district:

[REV: Ord. No. 95-9, 10/13/95]

1. Accounting, bookkeeping, CPA;
2. Ambulance service, rescue service;
3. Antique dealers;
4. Appliance sales, service, and repair;
5. Art gallery or museum;
6. Bakery, confectionery;
7. Ballrooms, dancing instruction;
8. Bank, ATM, Savings and Loan, Credit Union;
9. Barber or beauty shop;
10. Books, video, compact-disk sales, service, and rental;
11. Bowling alley, video game arcade;
12. Carpet, floor coverings, cleaning and sales;
13. Ceramics sales;
14. Clinic (dental or medical), hospital, sanatorium, nursing home;
15. Clothing or dry goods sales;
16. Club, lodge (without liquor license);
17. Data processing, computers, electronics, sales, service, repair;
18. Dermagraphics Studio;
19. Department store, variety store, sales;
20. Drug store, pharmacy, cosmetics, sales;
21. Dwelling unit (singular) one unit per lot subject to the provisions of Section 19 (F) of this ordinance;
22. Dwelling unit (multiple) subject to the following provisions;
 - a. Gross density for any lot shall not exceed three dwelling units per acre,
 - b. The above stated gross density may be exceeded only upon permit granted by the New Mexico Environment Department if site conditions are suitable for compliance with the Liquid Waste Disposal Regulations, and
 - c. If centralized water and sewer systems are available to the site, then a floor area ratio of 0.3 is permitted for each lot;

46. Music store;
47. Offices, professional, semi-professional, administrative, clerical.
48. Office equipment and supplies, sales, and services.
49. Parcel, package, delivery services;
50. Pest control, exterminator;
51. Photographic (equipment, supplies, studio) sales, service, repair;
52. Piercing Studio or Tattoo Parlor;
53. Printing;
54. Reducing salon, health spa, aerobic exercise, racquetball court;
55. Restaurant, cafe, cafeteria, delicatessen, catering;
56. Shoes, boots, sales, repair;
57. Sporting goods, sales, services, rental;
58. Tailor shop;
59. Theater;
60. Vehicle parts, sales, supplies; and
61. Watch repair, sales, and service.

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Zoning Board:
 [REV: Ord. No. 95-9, 10/13/95, Ord. No. 2020-06, 7/8/20]

1. Accessory buildings;
2. Automobile, truck, trailer, camper, RV, boat, sales, service, repair, rental;
3. Bars, lounges, package liquor sales;
4. Bus (common carriers) depot;
5. Cabinets, furniture, upholstery, manufacture, sales, and services;
6. Cable TV, receiving center, distribution center, service center;
7. Cannabis product retail or wholesale outlets and lounges;
8. Churches, places of worship;
9. Club, lodge (with liquor license);
10. Construction contractor, building trade contractor, storage, sales, and service;
11. Dwelling, temporary watchman or caretaker;
12. Farm supplies or equipment, sales and service;
13. Fireworks stand (temporary), sales;
14. Gasoline service station, commercial garage subject to the following regulations;
 - a. All major repair work on vehicles shall be conducted within an enclosed building,
 - b. A solid wall or fence at least six feet high is erected between the activity and any abutting residential zone districts, and
 - c. Outdoor storage of not more than three vehicles awaiting repair per enclosed service bay, provided such storage area is enclosed by a solid wall or fence at least six feet high;

6. Dwelling units (cluster) are subject to the following provisions:
[REV: Ord. No. 2008-003, 4/23/08]
- a. A site development plan shall be provided to adequately describe a unified scheme for residential and other supportive land uses which cover any size acreage;
 - b. The site development plan shall include written statements and information describing types and locations of structures, utilities, internal circulation and traffic impact, landscaping and site drainage, and a development phasing schedule if appropriate;
 - c. The gross density of a cluster development shall not exceed two dwelling units per acre, however, structural densities shall be in accordance with the water supply well and wastewater treatment standards set by the New Mexico Environment Department;
 - d. A portion of the land within a cluster development, comprising no less than 40 percent of the development site, shall be designated as open space for the common use of the residents or for preservation of an environmentally sensitive area; and
 - e. Ownership of the common area shall be clearly defined with appropriate covenants forbidding future partition, and the responsibility for improvements and maintenance of the common area shall be established with a procedure for funding such improvement and maintenance of the common area.
[REV: Ord. No. 2008-003, 4/23/08]
7. Gasoline service station or a commercial garage is subject to the following regulations:
- a. All major repair work on vehicles shall be conducted within an enclosed building;
 - b. A solid wall or fence at least six feet high is erected between the activity and any abutting residential zone districts; and
 - c. Outdoor storage of not more than three vehicles awaiting repair per enclosed service bay, provided such storage area is enclosed by a solid wall or fence at least six feet high.
[REV: Ord. No. 2008-003, 4/23/08]
8. A proposed land use must comply with Section 23, pertaining to water usage.
[REV: Ord. No. 97-7, 6/27/97]

25. Ornamental iron products, sales, assembly, repair;
26. Pawn shop, surplus, salvage goods, second-hand store, sales, trades (indoor only);
27. Radio or microwave transmission, repeater, multiplexing, dispatching;
28. Recreation hall, billiard parlor;
29. Restaurant (with liquor license);
30. Shopping center;
31. Signs, sales, manufacture;
32. Skating rink;
33. Storage sheds, rental;
34. Taxidermist; and
35. Veterinary hospital (small animals).

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Zoning Board;
 [REV: Ord. No. 95-9, 10/13/95]

1. Amusement parks, carnival, circus;
2. Cannabis product retail or wholesale outlets and lounges;
3. Ceramics, manufacture;
4. Churches, places of worship;
5. Dwelling, temporary watchman or caretaker;
6. Fireworks stand (temporary), sales;
7. Flea market subject to the following requirements;
 - a. Adequate off-street parking shall be provided to contain the largest anticipated crowd,
 - b. The site shall be kept free of litter and adequate refuse containers shall be provided,
 - c. Overnight storage of merchandise shall be prohibited, and
 - d. Adequate sanitary facilities (rest rooms) either portable or permanent shall be provided on site for use by patrons;
8. Gasoline service station, commercial garage subject to the following regulations:
 - a. All major repair work on vehicles shall be conducted within an enclosed building
 - b. A solid wall or fence at least six feet high is erected between the activity and any abutting residential zone district, and
 - c. Outdoor storage of not more than three vehicles awaiting repair per enclosed service bay, provided such storage area is enclosed by a solid wall or fence at least six feet high;
9. Greenhouse, nursery, landscaper
 [REV: Ord. No. 2020-06, 7/8/20]
10. Home occupation;
11. Laboratory, research;
12. Offices, temporary;
13. Radio or television station;

- b. A solid wall or fence at least six (6) feet high is erected between the activity and any abutting residential zone district, and
 - c. Outdoor storage of not more than three vehicles awaiting repair per enclosed service bay, provided such storage area is enclosed by a solid wall or fence at least six (6) feet high; and
7. A proposed land use must comply with Section 23, pertaining to water usage.
[REV: Ord. No. 97-7, 6/27/97]
8. Commercial Greenhouse operations are prohibited within the bounds of Types 1 & 2 subdivisions as defined in Article 2 of the Torrance County Subdivision Regulations. A Conditional Use Permit shall be required in all other areas within this zone.
[REV: ORD. No. 2020-06, 7/8/20]

SECTION 13.1 MAJOR DEVELOPMENT DISTRICT, UNDETERMINED IMPACT AND ADULT LAND USES (D-3).

[REV: Ord. No. 2001-2, 3/14/01]

A. Intent. This zone is intended to allow the uses and apply the standards described in the D-2 District with the addition of a conditional use and additional standards and procedures for Adult Land Uses.

B. Permissive Uses. The following permissive uses are allowed in this zone district:

- 1. All permissive uses allowed in D-2 District;

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Zoning Board: All conditional uses allowed in the D-2 District and Adult Land Uses, as described and authorized in Subsection E below.

[REV: Ord. No. 2008-003, 4/23/08]

- 1. Commercial Greenhouse operations are prohibited within the bounds of Types 1 & 2 subdivisions as defined in Article 2 of the Torrance County Subdivision Regulations. A Conditional Use Permit shall be required in all other areas within this zone.

[REV: Ord. No. 2020-06, 7/8/20]

- 2. Cannabis product retail or wholesale outlets and lounges.

[REV: Ord. No. 2020-06, 7/8/20]

D. District Standards. The following standards apply to all land uses within this zone district: All the District Standards required in the D-2 District.

- 2) Adult Bookstore. An establishment having a substantial or significant portion of its stock in film, video tapes, trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.
- 3) Adult Photo Studio. An establishment which, upon payment of a fee, provides photographic equipment or models for the purpose of photographing specified anatomical areas.
- 4) Adult Theater. A theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
- 5) Adult Land Use(s). Any one, any combination, or all of the following uses: Adult Amusement, Adult Bookstore, Adult Photo Studio, Adult Theater.

2. PROCEDURES FOR OBTAINING CONDITIONAL USE PERMIT

- a. Application. In addition to the requirements described in Section 21.B & C of the Zoning Ordinance, an applicant seeking approval for an Adult Land Use defined above must show that the proposed land use satisfies the Approval Requirements stated below, and must provide the following information:
 - 1) The name, address, telephone number, principal occupation, and age of the applicant;
 - 2) The name, address and principal occupation of the managing agent or agents of the business;
 - 3) The business name, business address and business telephone number of the establishment or proposed establishment, together with a description of the nature of the business;

- 3) Directly following the Zoning Board meeting, the County Commission shall call for a public meeting by notification of the time and place of the public hearing published in the next available newspaper of general circulation in the County at least 15 days prior to the hearing; and
- 4) The hearing of the Application shall take place at the next regularly scheduled bi-weekly meeting of the County Commission following the expiration of the 15-day notice period. Upon conducting its public hearing, the County Commission shall render either an oral or written decision, either to approve or deny the Conditional Use Permit, at the conclusion of the hearing. If the Commission makes only an oral decision, it may adopt a written decision at its next regularly scheduled meeting.

From the date of submission of a completed application, a decision of the County Commission must be made within 60 days. If a decision is not rendered, either approving or denying the Conditional Use Application, within the 60-day period, the Application will be approved and issued as a matter of law. Any time that lapses during a deferral requested by or consented to by the Applicant shall be excluded from the calculation of the 60-day period.

[REV: Ord. No. 2008-003, 4/23/08]

3. APPROVAL REQUIREMENTS

The approval standards of Section 21.D of the Zoning Ordinance shall be satisfied if the Application meets all of the following Approval Requirements:

- a. The proposed land use will not violate any civil or criminal law otherwise applicable, including, but not limited to, this Ordinance and the applicable building, fire and health regulations; criminal code sections 30-9-14, -14.1, -14.2 & -14.3 NMSA 1978 prohibiting indecent exposure, indecent dancing, indecent waiting and aggravated indecent exposure; and the Liquor Control Act, sections 60-3A-1, et seq., NMSA 1978, and all regulations promulgated there- under;
- b. The closest edge or corner of the building proposed for an Adult Land Use is at least 2000 feet from the closest edge or corner of any building approved for another Adult Land Use, as measured in a straight and the most direct line;
- c. The closest edge or corner of the building proposed for an Adult Land Use is at least 1000 feet from the closest edge or corner of any conforming residential dwelling, as measured in a straight and the most direct line, except that this provision may be waived if the owner(s) of any residential dwelling(s) located closer than the minimum separation distance consents in writing to the proposed use;

- a. Signs. In addition to the sign regulations stated in Section 18 of this Ordinance, any sign advertising an Adult Land Use shall not contain any emphasis, either by wording, picture or otherwise, on matters related to specified sexual activities or specified anatomical areas.
- b. Exterior Display. No Adult Land Uses shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas, from any public way or from any property not permitted for the Adult Land Use. This provision shall apply to any display decoration, sign, show window or other opening.
- c. Employee Records. The permittee shall at all times maintain and retain for the preceding three years the legal names/aliases and addresses of all persons employed as dancers by the permittee.
- d. Employee Age Minimum. The permittee shall not employ or allow as a dancer a person under the age specified by state law or regulation where alcohol is consumed.
- e. Admittee Age Minimum. No person under the age of 18 years shall be admitted where a nonalcoholic Adult Land Use is permitted. No person under the age of 21 years shall be admitted where an Adult Land Use with a liquor license is permitted. No employee of an Adult Land Use establishment shall allow any minor to loiter around or to frequent the establishment or to allow any minor to view a permitted Adult Land Use.
- f. Consumption of Alcohol. No permittee shall serve, sell, distribute or suffer the consumption or possession of any intoxicating liquor, or any beverage represented as containing any alcohol, upon the permitted premises without a valid liquor license.
- g. Display of Licenses. The permittee shall conspicuously display all licenses required by this Ordinance.
- h. No Dancing in Concealed Areas. All dancing permitted as part of an Adult Amusement Enterprise shall take place within an area which is visible immediately upon entrance to the establishment premises, or is visible immediately from the entry room area of the establishment's premises; however, no permitted dancing shall be visible to or from any outside or unpermitted areas.
- i. Contact Limitation. No dancer shall touch, fondle or caress any patron and no patron shall touch, fondle or caress any dancer on either the dancer's or patron's genitals, pubic region, buttock or female breast.

- b. Any act or omission of any employee constituting a violation of the provisions of this Ordinance shall be deemed the act or omission of the permittee for purposes of determining whether the permittee's permit shall be revoked, suspended or renewed.
- c. The permittee shall insure compliance of the establishment and its patrons with the provisions of this Ordinance.

7. RENEWAL

After the first issuance of a Conditional Use Permit for an Adult Land Use, the permit shall terminate upon the first-year anniversary of its issuance, unless it is renewed. Once the permit is renewed, it shall terminate upon the five-year anniversary of its most recent renewal, unless renewed again. There is no limit to the number of times a permit may be renewed. Any application for renewal must comply with the rules and regulations in effect at the time the application for renewal is submitted.

SECTION 14.0 VILLAGE COMMUNITY PRESERVATION DISTRICT (VCP).

[REV: Ord. No. 2001-2, 3/14/01]

A. Intent. This zone district preserves residential clusters in established unincorporated communities, and is intended to protect development of historic significance. This district allows residential development with necessary commercial, business, and other non-residential activities which serve local residents. The district regulations permit future development consistent with the existing character of the community, subject to health and safety standards.

B. Permissive Uses. Any of the following permissive uses are allowed in this zone district:
[REV: Ord. No. 95-5, 6/10/95; Ord. No. 97-8, 6/27/97; Ord. No. 2001-2, 3/14/01]

- 1. One singular dwelling unit per lot, provided it is in compliance with the requirements of the New Mexico Liquid Waste Disposal Regulations and the provisions of Section 19 (F) of this Ordinance;
- 2. Accessory uses and structures provided the structures are compliant with Section 19 (F) of this Ordinance.
- 3. Kennel, subject to the regulations of the Torrance County Animal Control Ordinance and the provisions of Section 6 of this Ordinance.

B. Permissive Uses. Any of the following permissive uses are allowed in this zone district:

1. Low intensity agricultural operations such as livestock grazing and related ranching activities;
2. Horse breeding, boarding and training;
3. Other low intensity production agriculture;
4. Cultivation and harvesting of plants and croplands;
5. Woodcutting and other activities related to harvesting trees;
6. Singular residential dwelling unit provided it is in compliance with the requirements of the New Mexico Liquid Waste Disposal Regulations and the provisions of Section 19 (F) of this Ordinance; and
7. Accessory uses and structures necessary to carry out the above-listed permissive uses.
8. Kennel, subject to the regulations of the Torrance County Animal Control Ordinance and the provisions of Section 6 of this Ordinance.

C. Conditional Uses. The following uses may be allowed in this district only upon permit granted by the Zoning Board:

1. Home occupations provided they are confined to the residence or accessory structure, are clearly a secondary use of the structure and present no visual impact to neighbors as viewed from adjoining property or public thoroughfare;
2. Small Bed and Breakfast operations limited to two guest bathrooms;
3. Horseback riding stables, provided sufficient land exists to support the number of animals maintained;
4. Dude ranch or other agricultural work experience operation;
5. Outfitters;
6. Essential public utility distribution structures;
7. Communication structures and facilities; and
8. One supplemental residential dwelling unit allowed on a parcel meeting district minimum standards; 2 supplemental residential dwelling units allowed on a parcel of at least eighty acres or 1/8 section.

SECTION 15. SOLID WASTE MANAGEMENT DISTRICT (SW)

A. Intent. This zone district provides for the siting, development, and operation of solid waste facilities in Torrance County. The boundaries of this zone district shall be defined as needed on a case-by-case basis following the amendment procedures and siting criteria provided in this Ordinance. Disposal of solid waste within Torrance County shall be regulated in accordance with all relevant laws including this Ordinance, the Torrance County Solid Waste Management Ordinance (Ord. No. 94-12), and all other applicable municipal, county, state, and federal laws pertaining to solid waste. Furthermore, no solid waste facility shall be established or operated without first obtaining a Solid Waste Facility Permit from the County Commission in accordance with the procedures set forth in this Ordinance.

[REV: Ord. No. 95-4, 6/10/95; Ord. No. 2008-003, 4/23/08]

B. Solid Waste Definition. The specific terms, "solid waste" and "solid waste facility" as defined by the Torrance County Solid Waste Management Ordinance (Ord. No. 94-12) are hereby adopted and incorporated herein by reference and made a part of this Ordinance.

C. Application for Zoning Amendment. Each application for a zone change to establish a Solid Waste Management District must be accompanied by a facility development report and site plan of sufficient size and scale in order to show:

[REV: Ord. No. 95-4, 6/10/95]

1. Boundaries of the proposed district and existing land uses and structures within the proposed district and within 500 feet of the proposed district boundaries;
2. Routes and design specifications of all proposed access roadways and/or railways within the proposed district and within one mile of the proposed district boundaries;
3. Existing topography, and re-grading plans if applicable, within the proposed district at a contour interval of two feet, based on mean sea level datum. All natural watersheds, watercourses, and floodplains shall be identified in accordance with the siting criteria established for this zone district;
4. Hydro-geologic data sufficient to define the groundwater level or water table underlying the proposed district. Such data shall be confirmed by the N.M. State Engineer Office in writing;
5. Location and estimated pumping rates of all water wells, including abandoned wells, within the proposed district and within 500 feet of the proposed district boundaries;

4. The Zoning Board shall prepare and transmit a recommendation in writing to the County Commission within 7 days after their review of the application is completed. The County Commission shall review the application, the recommendations of the Zoning Board, and any relevant public comment at a regularly scheduled meeting. Upon determining that the application for the solid waste facility is in compliance with this Ordinance, the County Commission shall grant a Solid Waste Facility Permit.

[REV: Ord. No. 2008-003, 4/23/08]

5. Renewal of a Solid Waste Facility Permit may be denied for failure to comply with this Ordinance, making any misrepresentation or omission of any relevant fact in the application, or for failure to comply with any other applicable municipal, county, state, or federal laws pertaining to solid waste.

E. Siting Criteria. This zone district shall be subject to the following siting criteria:

[REV: Ord. No. 95-4, 6/10/95]

1. District boundaries shall be no closer than 10,000 feet from any airport or aviation facility subject to regulation by the Federal Aviation Administration;
2. District boundaries shall be no closer than two miles from perennial streams or wetlands as designated by the U.S. Fish and Wildlife Service;
3. This district, or any portion thereof, shall not be located within any 100- year floodplain as designated by the Federal Emergency Management Agency;
4. No solid waste facility shall be established within a natural watercourse with visible evidence of the occasional flow of water; and
5. No solid waste facility shall be established where the ground water or the water table is less than 100 feet below the surface of the land or the bottom surface of any proposed pit, whichever is more restrictive.

F. Operational Criteria. This zone district shall be subject to the following operational criteria:

[REV: Ord. No. 95-4, 6/10/95]

1. Solid waste facilities shall be designed and operated to minimize blowing litter both on-site and off-site. Durable fencing shall be installed at least 6 feet in height around active areas for purposes of debris retention and site security;
2. Solid waste facilities shall be provided with all-weather access roads built to a standard adequate to bear anticipated traffic generated by the facility;
3. Solid waste facilities shall be designed and operated to minimize soil erosion and to mitigate storm-water runoff pollution; and

C. Removal of Zones. In the event that a use authorized as a Special Use District is permanently discontinued, the Special Use District may be canceled and removed under the provisions for an amendment to this Ordinance. That area delineated by a discontinued Special Use District shall be rezoned to the prevailing zone district as determined by the County Commission following recommendation by the Zoning Board.

[REV: Ord. No. 2008-003, 4/23/08]

D. Uses Allowed in Special Use District. A Special Use District may be authorized only for uses designated by the County Commission that are not permissive or conditional uses as defined by the Zone Districts enumerated above. Designated uses for this zone district which are subject to specific requirements or regulations are prescribed as follows:

[REV: Ord. No. 2008-003, 4/23/08]

1. Airports, airstrips and heliports subject to the following requirements:
[REV: Ord. No. 2008-003, 4/23/08]
 - a. Application for airport development shall be accompanied by a site plan showing: boundary lines including approach zones; runway layout with aprons, taxi strips, and parking and tie-down area; locations and heights of all buildings, structures, trees, and overhead wires within the airport boundary and the approach zones and also within 100 feet outside of such boundary; and other pertinent data such as topography and grading plan, drainage, water and sewer services, and access roadway,
 - b. The planned airport area shall be sufficient to meet Federal Aviation Administration requirements for the class of airport proposed, and
 - c. Any buildings or other structures in the proposed airport development shall be at least 100 feet from any right-of-way or lot line;
2. Commercial or cooperative cemetery, mausoleum, or crematory;
3. Correction, detention, or penal institution;
4. Dairies, slaughter houses, and Large Feedlots containing more than 200 head of animals;
5. Fuel wholesalers and storage (gasoline, liquefied petroleum) provided that all facilities shall not be within 500 feet of any dwelling unit unless sufficient blast, explosion, or fire confinement structures are installed according to appropriate State regulatory agencies;
6. Hospital, sanatorium, nursing home, or mental institution;

10. Wind Energy Facilities, subject to the following requirements:

- a. Purpose: The County encourages the development of businesses that harness wind energy. The purpose of this special use district is to foster the development of the County's wind power resources while preserving traditional land uses.
- b. Findings: The County finds that wind energy is an abundant, renewable and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Wind energy systems also enhance the reliability and power quality of the power grid, reduce peak power demands and help diversify the state's energy supply portfolio. Wind energy power plants stimulate economic development directly and indirectly.
- c. Wind Energy Facility Permit: If the County Commission approves a special use district for a Wind Energy Facility, the County Commission shall also issue to the applicant a Wind Energy Facility Permit. The Wind Energy Facility Permit shall specify additional conditions that apply to the Wind Energy Facility.
 - 1) Wind Energy Facility Permit. Prior to any change in ownership or controlling interest of any entity owning a wind energy facility permitted in Torrance County, application shall be made to the Zoning Board, requesting transfer of the wind energy facility siting permit. Approval of such transfer shall be conditioned upon explicit agreement by the new permittee to comply with all provisions of this Ordinance and the original permit. The application may be in letter form and shall be signed by the authorized representatives or agents of both the current permittee and the prospective permittee.
- d. Definitions:
 - 1) Wind Energy Facility: An electricity-generating facility consisting of two or more wind turbines under common ownership or operating control that includes substations, MET towers, cables/wires and other building accessories to such facility, whose main purpose is to supply electricity to off-site customer(s).
 - 2) Permittee: The developer, owner or operator of a Wind Energy Facility who applies for a special use district and receives a Wind Energy Facility Permit.
- e. Additional Information to be submitted with the application:

f. Additional Approval Standards:

1) Safety:

- a) The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
- b) Wind turbine towers shall not be climbable up to 15 feet above ground level by external ladders.
- c) All access doors to wind turbine towers and electrical equipment shall be lockable.
- d) Appropriate warning signage shall be placed on wind turbine towers, electrical equipment and wind energy facility entrances.
- e) Wind energy facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- f) All wind turbines shall conform to industry standards for automatic braking, governing or feathering to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.
- g) As a condition of approval, prior to the construction of the facility the applicant shall submit to the County proof of insurance [in an amount to be determined by the County in consultation with the County's insurer], to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility.
- h) Any wind energy system found to be unsafe by a local, state or federal agency shall be repaired by the owner to meet federal, state and local safety standards or removed within six months.
- i) If any turbine is not operated for a continuous period of 12 months, the owner shall notify the County within 30 days of such occurrence and shall set forth reasons for the operational difficulty and propose a corrective action plan. The corrective action shall be completed within 6 months. If the corrective action is not completed, the County may require removal of the inoperative turbine and tower.

5) Environmental and Visual:

- a) Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
- b) The design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
- c) No individual tower facility shall be installed at any location that would substantially detract from or block the view of the major portion of a recognized scenic vista, as viewed from any public road right-of-way or publicly-accessible parkland or open space within the County.
- d) Wind turbines shall be set back at least 2,500 feet from important bird areas as identified by [state, feds].

6) Restoration of Property:

- a) As a condition of approval of a special use district for a Wind Energy Facility, within one year of the termination or abandonment of leases, easements or operations of a Wind Energy Facility, the permittee shall cause, at its own expense, the restoration of the land to its pre-facility condition.

[REV: Ord. No. 2008-003, 4/23/08]

11. Solar Energy Facilities, subject to the following requirements:

- a. Purpose: The County encourages the development of businesses that harness solar energy. The purpose of this special use district is to foster the development of the County's solar power resources while preserving traditional land uses.
- b. Findings: The County finds that solar energy is an abundant, renewable and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Solar energy systems also enhance the reliability and power quality of the power grid, reduce peak power demands and help diversify the state's energy supply portfolio. Solar energy power plants stimulate economic development directly and indirectly.

- 5) A survey map at an appropriate scale showing any federal, state, county or local parks, and recognized historic or heritage sites, as identified in federal, state, county, or local GIS databases or other generally- available documentation.
- 6) Standard drawings of a solar collecting device structure(s), including the bases and footings, drawings of access roads, and including an engineering analysis and certification showing compliance with the applicable building code.
- 7) Data pertaining to the solar collecting device's safety and stability, including safety results from test facilities.
- 8) Proposal for landscaping, screening, and storm water management.
- 9) A completed Environmental Assessment Report.
- 10) A project visibility map, based on a digital elevation model, showing the impact of topography upon visibility of the project from other locations, to a radius of three miles from the center of the project. The scale used shall depict the three-mile radius as no smaller than 2.7 inches, and the base map used shall be a published topographic map showing man-made features, such as roads and buildings.
- 11) No fewer than four color photos, no smaller than 4" by 6", taken from the each of the four cardinal directions from locations within a three-mile radius from the site.
- 12) Images of the photos from paragraph 10 above shall be computer-enhanced to simulate the appearance of the as-built site facilities as they would appear from the locations where the photos were taken.

f. Additional Approval Standards:

- 1) Safety:
 - a) The solar energy facility has been designed and would be operated to prevent the misdirection of concentrated solar radiation onto nearby property, public roads or other areas accessible by the public.
 - b) The solar energy facility has been designed and would be operated to protect public safety, including development and implementation of a plan of operating procedures to prevent public access to hazardous areas, including appropriate warning signage on electrical equipment and at the solar energy facility entrances.

c) No solar energy facility shall cause unnatural flooding of adjacent properties.

4) Restoration of Property

a) As a condition of approval of a special use district for a Solar Energy Facility, within one year of the termination or abandonment of leases, easements or operations of a Solar Energy Facility, the permittee shall cause, at its own expense, the restoration of the land to its pre-facility condition.

[REV: Ord. No. 2008-003, 4/23/08]

12. Major power generation facilities including fuel-fired power plants as well as region-serving developments of solar or wind-driven energy generators.

[REV: Ord. No. 94-2, 2/9/94]

13. Planned Area Development (PAD), subject to the following requirements:

a. A PAD shall incorporate a unified planning scheme for residential comprised of singular, multiple, and/or cluster dwelling units and other supportive land uses which cover an area of 40 acres or more,

[REV: Ord. No. 2008-003, 4/23/08]

b. A PAD may be constructed in increments provided a development phasing schedule showing anticipated initiation and completion of each phase is documented, and provided each phase includes a site development plan as required for this zoning district and is reviewed and approved prior to development as a separate but component plan of the PAD,

c. A Supportive Data Document shall be required and shall contain statements and information concerning the following:

[REV: Ord. No. 2008-003, 4/23/08]

- 1) purpose and intent of the PAD,
- 2) internal and external land use relationships,
- 3) distribution, type, and intensity of land uses,
- 4) development phasing schedule, if applicable,
- 5) proposed public features,
- 6) projected traffic impact when PAD is fully built out, and
- 7) consideration of the view shed among all other factors.

- d. The exterior lighting of all buildings, structures, and surrounding grounds shall provide illumination for safety purposes, and shall be placed and screened to the extent possible such that it does not shine directly or reflect into any adjoining residential properties or public roadways,
 - e. Loading docks and outside storage areas shall be screened from public roadways and abutting residential properties,
 - f. Any shopping center proposal for an ultimate development containing more than 100,000 square feet of floor area shall include a traffic impact analysis of traffic generated by the shopping center and its effect on the surrounding roadway system, and
 - g. No shopping center shall cause unnatural flooding of adjacent properties from storm water runoff.
16. Travel Trailer or Recreational Vehicle Park provided it complies with the following requirements:
- a. The minimum park size shall be 2 acres,
 - b. The park site shall be graded, drained, and free of rubbish,
 - c. The park site shall have a wall, fence or planted area, 6 feet in height, that buffers the site from adjoining areas, and
 - d. The park shall contain individual campgrounds and each campground shall be at least 1,000 square feet in area with adequate parking such that no portion of any vehicle extends into a road within the park.

E. Water Usage. A proposed land use must comply with Section 23, pertaining to water usage.

[REV: Ord. No. 97-7, 6/27/97]

SECTION 16.1. TEMPORARY LAND USE OR SPECIAL EVENT PERMIT

Incidental or infrequent uses/events such as but not limited to circuses, fairs, carnivals, and outdoor sales that are commonly associated with a business or club which include but is not limited to civic, fraternal, charitable, religious, and patriotic organizations or temporary outdoor sales, or other commercial uses, may be allowed in "D" zone districts or on properties with an active Conditional Use or Special Use permit. Temporary Land Use or Special Event Permits shall be issued by the Planning and Zoning Director or designee, and shall be subject to the following conditions:

3. Industrial, manufacturing, and wholesaling establishments: one space per 2 employees on largest shift;
4. Medical and dental offices, clinics, including veterinary clinics: 5 spaces per doctor;
5. Offices, public buildings, and service establishments: one space per 300 square feet of floor area;
6. Places of public assembly: one space per 5 seats when fully occupied;
7. Retail and commercial business establishments: one space per 200 square feet of floor area;
8. Rooming or boarding house: one space for each 2 rooms; and
9. Additional space for parking may be required to prevent the occurrence of off-site parking along roadways and rights-of-way and on adjoining property.
[REV: Ord. No. 2001-2, 3/14/01]

C. Parking Design Standards. The following standards shall be applied to off-street parking area:

1. All parking spaces shall be provided with adequate circulation and access to a road or street;
2. Each parking space shall consist of an area not less than 9 feet by 20 feet; and
3. Where parking is used for larger vehicles such as semi-tractor trailers, spaces of sufficient size and adequate circulation and access for such vehicles must be provided.
[REV: Ord. No. 2001-2, 3/14/01]

D. Off-Street Loading Requirements. Sufficient off-street loading space shall be provided on all premises which receive or distribute bulk materials by motor vehicle. Off-street loading space shall not be located on designated off-street parking space or public right-of-way.

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2. For any free-standing sign, attached to an independent supporting structure which is not an integral part of a building, the sign face shall not exceed 800 square feet if located within 350 feet of the right-of-way line of an Interstate Highway. Free-standing signs which are not located within 350 feet of the right-of-way line of an Interstate Highway shall not exceed 300 square feet of sign face;
3. Building-mounted signs shall not exceed 100 square feet of sign face per tenant, unless the building is located within 350 feet of the right-of-way line of an Interstate Highway wherein a building-mounted sign shall not exceed 300 square feet of sign face per tenant;
4. No more than one on-premise, free-standing sign adjacent to each abutting roadway may be allowed. In any case of multiple enterprises on the premises, one free-standing sign may be allowed for each enterprise provided that no single sign shall exceed 800 square feet of sign face and the aggregate of all free-standing signs shall not exceed a sum of 1200 square feet of sign face on the premises;
5. Signs may be illuminated by any manner, provided there is no direct or reflected light onto highways or into residential areas;
6. Free-standing signs shall not exceed 30 feet in height, however, free-standing signs located within 350 feet of the right-of-way line of an Interstate Highway may be constructed to a maximum of 80 feet in height. Building-mounted signs shall not exceed the height of the building unless granted a variance in accordance with this Ordinance; and
7. One non-illuminated sign is allowed for each home occupation permitted by the County, provided that no such sign shall exceed six square feet of sign face;
8. All free-standing business signs are required to display a County Business License number and must pay a one-time fee of \$25 (twenty-five dollars) to cover administrative and inspection costs.

E. Auxiliary Signs. The following regulations for auxiliary signs shall apply County-wide:
[REV: Ord. No. 96-4, 4/27/96]

1. Signs visible from public right-of-way directing and guiding traffic and parking on private property shall not exceed ten square feet of sign face, may be illuminated by any manner provided there is no direct or reflected light onto highways or into residential areas, and shall display no advertising matter. For an enterprise which provides services to commercial trucking, such signs may be allowed that will not exceed 150 square feet of sign face, will not exceed 20 feet in height, and will not exceed 20 feet in length;
2. Informational signs intended to identify name, location, activities, or occupant of non-residential premises shall be limited to two signs, each of which shall not exceed 32 square feet of sign face and may be illuminated only by indirect light; and

2. Signs applied to trees, rocks, or other natural objects;
3. Signs which are or may become a public safety hazard.

H. Nonconforming Signs. Any sign that does not comply with a regulation concerning sign dimensions, number, and location as stated herein, but which existed prior to the effective date of such sign regulation, shall be considered a nonconforming sign and shall be subject to the following requirements:
[REV: Ord. No. 96-4, 4/27/96]

1. The nonconforming sign shall not be expanded or extended; and
2. Routine maintenance of a nonconforming sign is allowed.

SECTION 19. ADMINISTRATION.

A. Administrative Official. A Zoning Director shall be appointed by the County Commission to administer the provisions of this Ordinance. The Zoning Director may also serve in some other capacity as an employee or appointed official of the County.
[REV: Ord. No. 2008-003, 4/23/08]

B. Authority of Zoning Director. The Zoning Director is authorized to take reasonably necessary actions to administer and enforce this Ordinance, including:

1. Conducting inspections of buildings, structures, and the uses of land to determine compliance with this Ordinance;
2. Investigating resident complaints alleging violations of this Ordinance;
3. Issuing notices of violations of this Ordinance;
4. Issuing citations charging violations of this Ordinance;
5. Prosecuting charges for violations, including negotiating and entering into plea agreements, before the Torrance County Magistrate Court.
[REV: Ord. No. 2008-003, 4/23/08]

C. Authority of Zoning Enforcement Officer. The Zoning Director may designate a Zoning Enforcement Officer and delegate the Zoning Director's full authority to enforce this Ordinance to the Zoning Enforcement Officer. If a Zoning Enforcement Officer is so designated, then any restrictions, limitations or requirements placed upon the Zoning Director for the enforcement of this Ordinance shall apply to the Zoning Enforcement Officer.
[REV: Ord. No. 2008-003, 4/23/08]

- b. Shall any building or mobile home be used as a residence if the building has not previously been used as a residence or has not previously been issued a Development Review Permit in connection with such use as a residence, without first being reviewed by the Planning and Zoning Director, and issued a Development Review Permit. In addition to these requirements, an applicant for a Development Review Permit shall:

[REV: Ord. No. 2008-003, 4/23/08]

- 1) Submit a recorded deed or real estate contract that the applicant is the owner in fee simple or equitable title owner of the property or, proof that owner has authorized the application, through lease or other written authority.
- 2) Submit a suitable Building Permit or appropriate documentation establishing the applicant's right to construct a building or residence.
- 3) Submit the appropriate septic permit by the State Environment Department.
- 4) Submit the appropriate well permit issued by the State Engineer's Office or letter of intent from a centralized water system which states the proper legal description for the subject property and confirms there is a sufficient amount of water to provide for potable, sanitary, and fire suppression service to the dwelling or accessory structure. Applications which rely upon water harvesting or hauling water from a source off-premise must have on-premise storage capacity sufficient to provide the services listed above designed by a New Mexico licensed engineer or architect.
- 5) Submit a copy of the (1) New Mexico Registration and Title, or (2) Manufacture Certificate of Origin for a mobile or modular home.
- 6) Submit a statement from the Solid Waste Authority that you will be receiving their services for developments of human occupation.
- 7) Submit a statement from the Torrance County Treasurer showing taxes are paid to date.
- 8) Submit the applicable permit fee to the Planning and Zoning Director.
- 9) Where the property to be developed lies within a special flood hazard area, submit additional information and documentation as provided in the Flood Damage Prevention Ordinance, 92-4, or the Federal Emergency Management Agency (FEMA) National Flood Insurance Program.

[REV: Ord. No. 2008-003, 4/23/08]

2. Upon the review and approval of the Planning and Zoning Director, a Development Review Permit will be issued, a property address can be assigned, and a site inspection will be performed.

[REV: Ord. No. 2008-003, 4/23/08]

C. Nonconformities Allowed. A nonconformity existing at the time this Ordinance takes effect may be continued under the Certificate of Nonconformance. The authority to continue a nonconforming use is transferable to the successors and assigns of the owner. The transfer of authority shall be evidenced by transfer of the Certificate of Nonconformance to the successor or assignee. A continuing nonconforming use may also be referred to as a "grandfathered use".

D. Expansion. A nonconformity shall not be enlarged, expanded, or extended. However, the addition of a lawful use to any portion of a nonconforming building shall not be deemed an extension of such nonconforming building.

E. Restoration. If a nonconforming use or structure is damaged or destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, then restoration must be for a permitted use. Singular dwelling units, however, may be exempt from this restoration requirement if approved by the Zoning Board and the New Mexico Environment Department in order to comply with Liquid Waste Disposal Regulations.

[REV: Ord. No. 2008-003, 4/23/08]

F. Abandonment. Whenever a nonconforming use has been discontinued or abandoned for a period of one year or more, such use shall not thereafter be reestablished, and any future use must be in conformance with the provisions of this Ordinance. Any nonconforming dry land or irrigated farmland shall be exempt from this abandonment requirement.

G. Nonconforming Lot Size. Any lot of record existing prior to the effective date of this Ordinance, which fails to meet the minimum area requirements, may be developed, redeveloped, or improved provided that any other requirements of the lot are in conformance with the provisions of this Ordinance. Unless specifically cited by the Zoning Board, a Certificate of Nonconformance will not be required for nonconforming lots.

[REV: Ord. No. 2008-003, 4/23/08]

SECTION 21. CONDITIONAL USE PERMITS.

A. Approval and Permit Required. Conditional uses established by this Ordinance shall not be allowed without the review and approval of the Zoning Board, which shall be guided in making a decision by the criteria set forth in this section. Anyone seeking a Conditional Use Permit shall provide to the Zoning Director such information as may be reasonably required to determine whether the requested conditional use is consistent with the intent and purpose of this Ordinance.

[REV: Ord. No. 2008-003, 4/23/08]

1. For any conditional uses that have an exceptional tendency, because of their nature or character, to create an adverse impact on neighboring properties, the Zoning Board may limit the term of the permit to a specified length of time after which the permit shall expire and may be renewed. An application for renewal of the Conditional Use Permit may be submitted and processed in the same manner as the original application, with reduced filing fee.
[REV: Ord. No. 2008-003, 4/23/08]
2. Where there has been a significant change in the physical extent, operations, or character of a permitted conditional use, the Zoning Board may require a renewal of the original Conditional Use Permit. Significant change shall be determined by the Zoning Board, based on a scheduled review of the Conditional Use Permit.
[REV: Ord. No. 2008-003, 4/23/08]
3. An approved Conditional Use Permit shall become void one (1) year after the date of approval if the rights and privileges granted thereby have not been utilized.
4. An approved Conditional Use Permit shall become void if, after the use has begun, it ceases on the approved site for a continuous period of one (1) year or more.
5. The County Commission may revoke a permit if the requirements and restrictions required by this Ordinance are not met. Before a permit may be revoked, the permittee must be given at least 10 days written notice of the specific charges and be given the opportunity for a hearing before the County Commission.
[REV: Ord. No. 2001-2, 3/14/01; Ord. No. 2008-003, 4/23/08]

SECTION 22. VARIANCES.

- A. Definition. The Zoning Board may approve a variance from the strict application of area, dimension, distance, setback, off-street parking, and off-street loading requirements of this Ordinance in the case of exceptional physical conditions where the strict application of the requirements of this Ordinance would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of land or building.
[REV: Ord. No. 2008-003, 4/23/08]
- B. Application. Any request for a variance should be submitted with filing fee to the Zoning Director on a prescribed application form obtainable from the Zoning Director. The Zoning Director shall transmit the application and any supplementary information to the Zoning Board for review and consideration at their next regularly scheduled meeting. To the extent possible, all abutting property owners shall be notified of the Zoning Board meeting at which the variance application will be considered.
[REV: Ord. No. 2008-003, 4/23/08]

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C. Referral to Public Agency. After an application is deemed complete, the County Zoning Director or Zoning Board may forward a copy of the application to any of the following state or local agencies by certified mail "Return Receipt Requested" with a request for review and opinion:

[REV: Ord. No. 97-7, 6/27/97; Ord. No. 2008-003, 4/23/08]

1. New Mexico State Engineer's Office;
2. New Mexico Environment Department;
3. Soil and Water Conservation District in which the proposed land usage would occur;
4. The Estancia Basin Water Planning Committee; and
5. Such other public agencies as the County deems necessary or appropriate.

D. Agency Response. The state and/or local agencies shall be given forty-five (45) days from their receipt of the application to review and return an opinion regarding its effect on water resources within the County. The Zoning Director shall obtain receipts or other proof showing the date the opinion request was received by each state or local agency. In reviewing an application, the Zoning Board shall consider any timely agency response or comment in making a decision or recommendation on the application.

[REV: Ord. No. 97-7, 6/27/97; Ord. No. 2008-003, 4/23/08]

E. Guidelines. In evaluating a water usage associated with a proposed land use, the County shall consider the following factors, where applicable:

[REV: Ord. No. 97-7, 6/27/97]

1. The effect or impacts on the public safety, health and welfare of County inhabitants, particularly those in the vicinity of the proposed water usage;
2. The potential adverse effects on water quality;
3. Effects on water quantity, including potential impairment of prior existing water uses; and
4. Whether the water use is consistent with conservation and beneficial use of water.

SECTION 24. AMENDMENTS.

A. Amendment. The County Commission may amend any part of this Ordinance, including the zone district boundaries. The County Commission may elect to submit a proposal for amendment to the Zoning Board for review and recommendation made by the Zoning Board.

[REV: Ord. No. 2008-003, 4/23/08]

E. Notification by Mail. Whenever a property owner initiates a zone change for an area of one block or less (or 5 acres or less), notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners of land within the area proposed to be changed by a zoning regulation and within 100 feet, excluding public right-of-way, of the area proposed to be changed by zoning regulations. Whenever a property owner initiates a zone change for an area of more than one block (or more than 5 acres), notice of the public hearing shall be mailed by first class mail to the owners of land within the area proposed to be changed by a zoning regulation and within 100 feet, excluding public right-of-way, of the area proposed to be changed by zoning regulations. If any notice by first class mail is returned undeliverable, the County shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested, to that address. Notification by mail is not required for County-wide changes, initiated by the County, for purposes of revising or adopting a new zoning category; however such changes are subject to the public notice requirements provided herein for the public hearing to consider an amendment to this Ordinance.

[REV: Ord. No. 97-2, 3/26/97]

F. Procedure. The Zoning Board shall make its decision on each application and shall make a recommendation to the Board of County Commissioners. The Board of County Commissioners shall act to uphold, overturn, or remand the decision to the Zoning Board no later than the next regularly scheduled meeting of the Board of County Commissioners immediately following the Appeal Period.

SECTION 25. APPEALS.

A. Right of Appeal. Anyone aggrieved by a decision of the Zoning Director or the Zoning Board in carrying out the provisions of this Ordinance may appeal such decision to the County Commission. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by evidence in the matter.

[REV: Ord. No. 2008-003, 4/23/08]

B. Application. Any appeal following a decision of the Zoning Director or the Zoning Board shall be made in writing to the County Commission on prescribed forms obtainable from the Zoning Director upon payment of the applicable filing fee. Any appeal not submitted within fourteen (14) days after the decision which is the subject of the appeal shall not be considered by the County Commission.

[REV: Ord. No. 2008-003, 4/23/08]

C. Public Hearing. The decision on an appeal shall be made by the County Commission following a public hearing. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the County at least 15 days prior to the hearing.

[REV: Ord. No. 2008-003, 4/23/08]

12. Enlarged Zoning Maps
[REV: Ord. No. 2008-003, 4/23/08]

SECTION 27. PENALTIES.

Anyone violating any of the provisions of this Ordinance shall upon conviction be subject to a fine not exceeding \$300 or imprisonment for a period not exceeding 90 days, or both such fine and imprisonment. Any violation continued for a period of 30 days after conviction shall be prosecuted and treated as a separate offense.

SECTION 28. SEVERABILITY.

The provisions of this Ordinance shall be deemed to be severe, and should any sentence, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

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