

Chapter 26
LAND USE REGULATIONS

	Page
ARTICLE I. IN GENERAL.....	26-6
Sec. 26-1-1. Title.....	26-6
Sec. 26-1-2. Application.....	26-6
Sec. 26-1-3. Purpose.....	26-6
Sec. 26-1-4. Severability.....	26-7
Sec. 26-1-5. Information.....	26-7
Sec. 26-1-6. Interpretation.....	26-7
Sec. 26-1-7. Prohibited or Restricted.....	26-7
Sec. 26-1-8. Violations.....	26-9
Sec. 26-1-9. Enforcement.....	26-9
Sec. 26-1-10. Penalties.....	26-9
ARTICLE II. ZONE DISTRICT REGULATIONS.....	26-10
DIVISION 1. IN GENERAL.....	26-10
Sec. 26-2-15. Districts Established.....	26-10
Secs. 26-2-16 to 26-2-20. Reserved.....	26-10
DIVISION 2. A-1 : AGRICULTURAL OR RURAL DISTRICT.....	26-11
Sec. 26-2-21. In General.....	26-11
Sec. 26-2-22. Uses Permitted.....	26-11
Sec. 26-2-23. Height Regulations.....	26-12
Sec. 26-2-24. Area Regulations.....	26-12
Sec. 26-2-25. Setback Regulations.....	26-12
Sec. 26-2-26. Conditional Uses.....	26-13
Secs. 26-2-27 to 26-2-30. Reserved.....	26-13
DIVISION 3. R-1 : SINGLE FAMILY DWELLING DISTRICT.....	26-14
Sec. 26-2-31. In General.....	26-14
Sec. 26-2-32. Uses Permitted.....	26-14
Sec. 26-2-33. Height Regulations.....	26-17
Sec. 26-2-34. Area Regulations.....	26-17
Sec. 26-2-35. Setback Regulations.....	26-17
Sec. 26-2-36. Conditional Uses.....	26-18
Secs. 26-2-37 to 26-2-40. Reserved.....	26-18
DIVISION 4. R-2 : MULTIPLE-FAMILY DWELLING DISTRICT.....	26-19
Sec. 26-2-41. In General.....	26-19
Sec. 26-2-42. Uses Permitted.....	26-19
Sec. 26-2-43. Height Regulations.....	26-21
Sec. 26-2-44. Area Regulations.....	26-21
Sec. 26-2-45. Setback Regulations.....	26-21
Sec. 26-2-46. Conditional Uses.....	26-22
Secs. 26-2-47 to 26-2-50. Reserved.....	26-23
DIVISION 5. 0-1 : OFFICE AND INSTITUTIONAL DISTRICT.....	26-24
Sec. 26-2-51. In General.....	26-24

Sec. 26-2-52. Uses Permitted.....	26-24
Sec. 26-2-53. Height Regulations.....	26-25
Sec. 26-2-54. Area Regulations.....	26-25
Sec. 26-2-55. Setback Regulations.....	26-25
Sec. 26-2-56. Conditional Uses.....	26-26
Secs. 26-2-57 to 26-2-60. Reserved.....	26-27
DIVISION 6. C-1 : LIMITED RETAIL / NEIGHBORHOOD COMMERCIAL DISTRICT ...	26-28
Sec. 26-2-61. In General.....	26-28
Sec. 26-2-62. Uses Permitted.....	26-28
Sec. 26-2-63. Height Regulations.....	26-29
Sec. 26-2-64. Area Regulations.....	26-29
Sec. 26-2-65. Setbacks Regulations.....	26-29
Sec. 26-2-66. Conditional Uses.....	26-29
Sec. 26-2-67 to 26-2-70. Reserved.....	26-30
DIVISION 7. C-2 : GENERAL COMMERCIAL AND WHOLESALE DISTRICT	26-31
Sec. 26-2-71. In General.....	26-31
Sec. 26-2-72. Uses Permitted.....	26-31
Sec. 26-2-73. Height Regulations.....	26-32
Sec. 26-2-74. Area Regulations.....	26-33
Sec. 26-2-75. Setback Regulations.....	26-33
Sec. 26-2-76. Conditional Uses.....	26-33
Sec. 26-2-77 to 26-2-80. Reserved.....	26-34
DIVISION 8. M-1 : LIGHT MANUFACTURING DISTRICT	26-35
Sec. 26-2-81. In General.....	26-35
Sec. 26-2-82. Uses Permitted.....	26-35
Sec. 26-2-83. Height Regulations.....	26-37
Sec. 26-2-84. Area Regulations.....	26-37
Sec. 26-2-85. Setback Regulations.....	26-37
Sec. 26-2-86. Conditional Uses.....	26-37
Sec. 26-2-87 to 26-2-90. Reserved.....	26-38
DIVISION 9. M-2 : HEAVY MANUFACTURING DISTRICT	26-39
Sec. 26-2-91. In General.....	26-39
Sec. 26-2-92. Uses Permitted.....	26-39
Sec. 26-2-93. Height Regulations.....	26-41
Sec. 26-2-94. Area Regulations.....	26-41
Sec. 26-2-95. Setback Regulations.....	26-41
Sec. 26-2-96. Conditional Uses.....	26-42
Sec. 26-2-97 to 26-2-100. Reserved.....	26-42
DIVISION 10. MH : MOBILE HOME DISTRICT	26-43
Sec. 26-2-101. In General.....	26-43
Sec. 26-2-102. Uses Permitted.....	26-43
Sec. 26-2-103. Height Regulations.....	26-45
Sec. 26-2-104. Area Regulations.....	26-45
Sec. 26-2-105. Setback Regulations.....	26-45

Sec. 26-2-106. Conditional Uses.	26-46
Sec. 26-2-107. Utilities.	26-46
Sec. 26-2-108. Site Conditions for Mobile Home Parks.	26-47
Secs. 26-2-109 to 26-2-110. Reserved.	26-47
DIVISION 11. PUD : PLANNED UNIT DEVELOPMENT DISTRICT	26-48
Sec. 26-2-111. In General.	26-48
Sec. 26-2-112. Procedures.	26-48
Sec. 26-2-113. Height Regulations.	26-49
Sec. 26-2-114. Area Regulations.	26-49
Sec. 26-2-115. Setback Regulations.	26-49
Sec. 26-2-116. Special Uses.	26-49
Secs. 26-2-117 to 26-2-120. Reserved.	26-50
DIVISIONS 12 TO 20. Reserved.	26-50
Secs. 26-2-121 to 26-2-209. Reserved.	26-50
DIVISION 21. AIRPORT OVERLAY ZONE (AO).....	26-51
Sec. 26-2-210. Purpose.	26-51
Sec. 26-2-211. Jurisdiction.	26-51
Sec. 26-2-212. Zone Standards.	26-51
Sec. 26-2-213. Existing Uses.	26-52
Sec. 26-2-214. Permits, Variances and Mandatory Referral.	26-52
Sec. 26-2-215. Compliance with Federal Aviation Regulations (FAR)	
Section 77.13.	26-52
Sec. 26-2-216. Federal Aviation Administration Certification.	26-52
Sec. 26-2-217. Compliance with Federal Aviation Administration Regulations.	26-53
Sec. 26-2-218. Use, Privilege and Assumption of Risk.	26-53
Secs. 26-2-219 to 26-2-220. Reserved.	26-53
Sec. 26-2-221. Definitions.	26-53
Secs. 26-2-222 to 26-2-249. Reserved.	26-53
DIVISION 22. NORTH MAIN OVERLAY (NMO).....	26-54
Sec. 26-2-250. Purpose.	26-54
Sec. 26-2-251. Jurisdiction.	26-54
Sec. 26-2-252. Allowed Uses.	26-55
Sec. 26-2-253. Conditional Uses.	26-55
Sec. 26-2-254. Prohibited Uses.	26-55
Sec. 26-2-255. General Design Principles.	26-56
Sec. 26-2-256. Street Network Design Principles.	26-56
Sec. 26-2-257. Block Length.	26-57
Sec. 26-2-258. Cul-de-sacs.	26-57
Sec. 26-2-259. Access and Parking.	26-57
Sec. 26-2-260. Buffering.	26-58
Sec. 26-2-261. Landscaping.	26-58
ARTICLE III. SUPPLEMENTARY REGULATIONS	26-59
DIVISION 1. ACCESSORY STRUCTURES	26-59
Sec. 26-3-131. Requirements.	26-59

Sec. 26-3-132. Shipping Cargo Containers.	26-59
Secs. 26-3-133 to 26-3-140. Reserved.	26-60
DIVISION 2. COMMUNICATIONS TOWER AND ANTENNA	26-61
Sec. 26-3-141. In General.	26-61
Sec. 26-3-142. Height Restrictions.	26-61
Sec. 26-3-143. Application Requirements.....	26-62
Sec. 26-3-144. Conditions.	26-63
Sec. 26-3-145. Landscaping and Screening.	26-64
Sec. 26-3-146. Signs.	26-65
Sec. 26-3-147. Removal.	26-65
Sec. 26-3-148. Definitions.	26-65
Sec. 26-3-149 to 26-3-150. Reserved.....	26-66
DIVISION 3. LANDSCAPING AND OPEN SPACE.....	26-67
Sec. 26-3-151. In General.	26-67
Sec. 26-3-152. District Requirements.	26-67
Sec. 26-3-153. Landscape Plan Requirements.....	26-67
Sec. 26-3-154. Landscaping Within Public Right-of-Ways.	26-68
Sec. 26-3-155. Installation and Maintenance Standards.....	26-68
Sec. 26-3-156. Compliance.	26-69
Sec. 26-3-157. Definitions.	26-69
Secs. 26-3-158 to 26-3-160. Reserved.....	26-70
DIVISION 4. METAL BUILDINGS.....	26-71
Sec. 26-3-161. In General.	26-71
Sec. 26-3-162. Plan Review Process.....	26-71
Sec. 26-3-163. Architectural Design Standards.	26-71
Sec. 26-3-164. Definitions.	26-72
Secs. 26-3-165 to 26-3-170. Reserved.....	26-73
DIVISION 5. PARKING AND LOADING AREAS	26-74
Sec. 26-3-171. Parking Requirements.	26-74
Sec. 26-3-172. Required Improvements for Parking.	26-74
Secs. 26-3-173 to 26-3-175. Reserved.....	26-75
Sec. 26-3-176. Unloading and Shipping Facilities Requirements.....	26-75
Secs. 26-3-177 to 26-3-180. Reserved.....	26-76
DIVISION 6. PROTECTION OF FLOOD WATERWAYS	26-77
Sec. 26-3-181. Restricted.	26-77
Secs. 26-3-182 to 26-3-199. Reserved.....	26-77
DIVISION 7. CANNABIS REGULATIONS	26-78
Sec. 26-3-200. In General.	26-78
Sec. 26-3-201. Scope and Purpose.....	26-78
Sec. 26-3-202. Requirements.....	26-78
Sec. 26-3-203. Prohibition.	26-79
Sec. 26-3-204. Permitted Zoning Districts.	26-79
Sec. 26-3-205. Requirements for Cultivation & Manufacturing.....	26-80
Sec. 26-3-206. Setbacks.	26-80

Sec. 26-3-207. Restrictions.	26-80
Sec. 26-3-208. Other Prohibitions.....	26-80
Sec. 26-3-209. Plan Review.	26-80
Sec. 26-03-210 Definitions.	26-81
ARTICLE IV. PROPERTY USE REQUIREMENTS AND EXCEPTIONS.....	26-84
DIVISION 1. IN GENERAL.....	26-84
Sec. 26-4-501. Uses Not Listed.....	26-84
Sec. 26-4-502. Lawful Non-Conformance.....	26-84
Sec. 26-4-503. Discontinuance and Abandonment.....	26-84
Sec. 26-4-504. Procedures.....	26-84
Secs. 26-4-505 to 26-4-520 Reserved.....	26-85
DIVISION 2. CHANGE OF DISTRICT	26-86
Sec. 26-4-521. Process.....	26-86
Secs. 26-4-522 to 26-4-530. Reserved.....	26-86
DIVISION 3. SPECIAL USE	26-87
Sec. 26-4-531. Purpose.....	26-87
Sec. 26-4-532. Process.....	26-87
Secs. 26-4-533 to 26-4-540. Reserved.....	26-88
DIVISION 4. CONDITIONAL USE	26-89
Sec. 26-4-541. Purpose.....	26-89
Sec. 26-4-542. Process.....	26-89
Secs. 26-4-543 to 26-4-550. Reserved.....	26-90
DIVISION 5. VARIANCE	26-91
Sec. 26-4-551. Purpose and Hardship.....	26-91
Sec. 26-4-552. Process.....	26-91
ARTICLE V. DEFINITIONS.....	26-93
Sec. 26-5-121. Definitions.	26-93

Chapter 26 LAND USE REGULATIONS

ARTICLE I. IN GENERAL

Sec. 26-1-1. Title.

These Regulations including the Zoning Districting Map, shall be known and cited as the "Official Land Development Ordinance" of the City of Aztec and constitutes the comprehensive Land Development plan.

(Code 2007, 26-1)

Sec. 26-1-2. Application.

All development of property is governed according to the district in which it is located. Any use not classified as permitted or conditional within a particular district is hereby prohibited from that district, except as otherwise provided within this regulation. The districts and boundaries described within this document are shown on the official "Land Development Map" available in an up-to-date form in the City Administration Building.

(Code 2007, 26-2)

Sec. 26-1-3. Purpose.

The regulations, restrictions and requirements of this ordinance have been made in accordance with the Comprehensive Plan of the City of Aztec (July 1999), and are intended to promote the general health, safety, and welfare of the residents of Aztec. Such regulations, restrictions, and requirements are deemed necessary in order to regulate and restrict within the Corporate Limits of the City of Aztec, as they exist at any given time, the following:

1. Height, number of stories, and size of buildings and other structures;
2. Size of yards, courts and other open spaces;
3. Percentage of a lot that may be occupied;
4. Density of population, and;
5. Location and use of buildings, structures and land for trade, industry, residence, or other purpose, to encourage and facilitate the orderly growth and expansion of the City;
6. Land Use Patterns and Community Character.

Furthermore, the purpose of these regulations is to promote the development of the City of Aztec with respect to the traditional nature of its development pattern. Patterns and Community Character may be described by the following:

7. Establishing rational land use and growth patterns and encouraging the most appropriate use of individual pieces of land in accordance with the Comprehensive Plan.
8. Encouraging neighborhoods of diverse use and population;

9. Encouraging communities designed with respect to pedestrians and multi-modes of transit including bicycles, walking and potentially future public transit as well as the automobile.
10. Encouraging communities designed and shaped by physically defined and universally accessible public spaces and community institutions;
11. Encouraging communities framed by architecture and landscape design that celebrate local history, climate, ecology and building practice.
(Code 2007, 26-3)

Sec. 26-1-4. Severability.

If for any reason any one or more sections, sentences, clauses or parts of this ordinance are held invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this ordinance but shall be confined to its operation in the specific sections, sentences, clauses or parts of this ordinance held invalid and the invalidity of any section, sentence, clause or part of this ordinance in any one or more instances shall not affect or prejudice in any way the validity of this ordinance in any other instance.

(Code 2007, 26-4)

Sec. 26-1-5. Information.

The Planning Department shall maintain an office to supply the public with information about land development, shall maintain the Official District Map in its current form, and shall issue certificates or letters showing the districts when requested. All matters relating to land development shall be filed and maintained within the Planning Department.

(Code 2007, 26-5)

Sec. 26-1-6. Interpretation.

In interpreting and applying the provisions of Chapter 26 they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, and general welfare. It is not intended by this chapter to interfere with or conflict or void any ordinance, rules, regulations or permits previously adopted or issued and not in conflict with any provisions of this chapter; nor is it intended by this chapter to interfere with or abrogate or void any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use buildings or premises or upon the height of buildings, or requires larger open spaces or larger lot areas than are imposed or required by such ordinance or agreements, the provisions of this chapter shall control.

(Code 2007, 26-6)

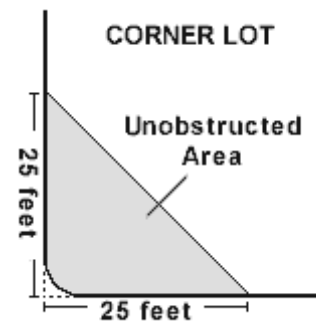
Sec. 26-1-7. Prohibited or Restricted.

The following is prohibited except as otherwise provided in this regulation or any subsequent Ordinance passed by the Commission which may amend these regulations.

1. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations established for the district in which a building or premise is located.
2. No part of a yard or other open space provided around a building on one recorded lot shall

be considered as part of a yard or other open space for an adjoining property or lot.

3. Every building erected, converted, enlarged or structurally altered shall be located on a lot as a single building with no other building, unless specifically provided for in these regulations.
4. Off-Street parking for all uses must be provided in accordance with the regulations set forth in the *Off-Street Parking Requirements* of this ordinance, Article III, Division 5.
5. Unobstructed vision and clearance for traffic safety shall be maintained by the property owner or occupant on all corner lots regardless of the district classification. This includes any building, sign, fence, ornament, hedge, shrub, tree display, or other obstruction that could interfere with line of sight, excluding existing buildings.



This ruling applies to a triangular area formed by drawing a line connecting two points each twenty-five (25) feet back from the intersecting point of each curb edge (or driving surface where there are no curbs). No vegetation, structure or object shall be over three (3) feet high in this unobstructed area.

6. No building, structure, or vehicle shall be constructed, maintained or used, which would be in conflict with the State Environmental Improvement Act (NMSA 54-1-26 through 54-4-15) as amended. All motor vehicles parked in the described land development districts or in any public right-of-way (designated street and road ways) must be operative and may not be wholly or partially dismantled unless parked inside a garage, building, or carport. If parked within a carport, the inoperative vehicle shall be covered with a tarp.
7. No permanent dwelling shall be erected in the flood plain area as shown on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map unless construction methods are met that conform to the appropriate building standards within a flood plain area and that such proposal to construct is approved by the City Commission.
8. Every mobile home, shall be equipped with skirting or perimeter wall to conceal the undercarriage of the mobile home. The skirting or perimeter wall shall be of material that provides an appearance that is compatible with the dwelling and site built homes in the area. The skirting or perimeter wall shall be in place within ninety (90) days from the date electric utilities are hooked up. Noncompliant mobile homes are subject to enforcement and penalties herein
9. Municipal or County Agencies: No permit, certificate, license or other document or oral approval, shall be issued by a department, agency or board of the municipality until the Community Development Department has certified that the use of the permit is in full compliance with the provisions of this ordinance.
10. Solid waste dumpsters in any commercial, office and institutional or residential district shall be located in the side or rear of the lot. In addition, the solid waste dumpsters shall be screened with either fence or wall or other appropriate structure so as not to be openly exposed to the public view from the frontage of the business.

(Code 2007, 26-7)

Sec. 26-1-8. Violations.

Violation of this ordinance shall constitute any one of the following:

1. Failure to comply with any of the provisions of this ordinance.
2. Failure to perform any act as required by this ordinance, or performing any act prohibited by this ordinance.
3. Failure to comply with any limitation imposed on the use of any land.
4. Failure to comply with any limitation imposed on the erection or alteration of any structure.
5. Failure to comply with any limits imposed on the use of such structures or the use within such structures.

(Code 2007, 26-8)

Sec. 26-1-9. Enforcement.

The City Manager shall designate an individual(s) who shall have the authority and duty to enforce this Chapter. Lack of knowledge or alleged lack of knowledge of the requirements of this Chapter by the offender shall not justify waiver or variance from these minimum standards.

Any application for permit, license, or certificate pertaining to the use of land or buildings shall be subject to the approval of a representative of the Planning Department. Any such permits, license or certificates issued in conflict with the provisions of this Chapter shall be considered and potentially void.

(Code 2007, 26-9)

Sec. 26-1-10. Penalties.

Any person violating any of the provisions of this Chapter are punishable as provided in Section 1-8.

(Code 2007, 26-10)

ARTICLE II. ZONE DISTRICT REGULATIONS

DIVISION 1. IN GENERAL**Sec. 26-2-15. Districts Established.**

1. The City of Aztec is hereby divided into the following types of land development districts within the City limits, such types to be used in the designations as hereinafter specified, to carry out the provisions of this ordinance:

- (1) A-1 Agricultural or Rural
- (2) R-1 Single Family Dwelling
- (3) R-2 Multiple Family Dwelling
- (4) O-1 Office and Institutional
- (5) C-1 Neighborhood Commercial and Limited Retail
- (6) C-2 General Commercial and Wholesale
- (7) M-1 Light Manufacturing
- (8) M-2 Heavy Manufacturing
- (9) MH Mobile Home District
- (10) PUD Planned Unit Development

2. The designation of the various types of districts and the corresponding boundaries thereof are shown on the "Official District Map for the City of Aztec", which is kept in an up-to-date form in the City Administration Building. The following general rules and regulations shall apply to the use of the District Map:

- (1) District Boundaries. The boundary of any district or districts shall be the property line, unless otherwise specifically stated in this regulation or shown on the Official Land Development Map. Questionable districts or district boundary lines shall be determined by the City Manager.
- (2) Annexed Areas. All land that is to be annexed into the City of Aztec shall undergo public input in order to establish the boundaries of the districts to be applied to the annexed lands. This process may or may not be concurrent with the annexation action. If not concurrent, the boundaries of the districts will be designated within ninety (90) days of annexation.

(Code 2007, 26-15)

Secs. 26-2-16 to 26-2-20. Reserved.

DIVISION 2. A-1 : AGRICULTURAL OR RURAL DISTRICT

Sec. 26-2-21. In General.

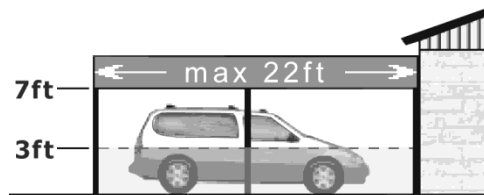
The purpose of this land use district is to protect and preserve agriculture lands and related activities in their present character. This district will permit uses customarily conducted in an agricultural or rural area and is further controlled in that one-family or multiple-family dwellings are permitted only on large lots thereby maintaining a low density of population.

(Code 2007, 26-21)

Sec. 26-2-22. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Single Family Dwelling. Site built dwelling of 800 square feet or more. The minimum lot size is 5 acres. A dwelling on a parcel less than 5 acres is permitted only if it was a "lot of record" at the time of adoption of the ordinance.
2. Farm. For the growing of crops or raising of animals provided animals other than household pets are kept in numbers not exceeding one animal unit per 1/2-acre (21,780 square feet) pasture area or fenced area, where they are permitted to graze.
3. Mobile Home. One mobile home may be located on each lot or parcel no smaller than 5 acres. A smaller parcel is permitted only if it was a "lot of record" at the time of adoption of the ordinance. Such dwellings will be permanently attached to a foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, a perimeter wall will be constructed of durable materials and will also meet local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance, which is compatible with the dwelling and site built homes in the area. Minimum State requirements and manufacturer's installation standards regarding permanent foundation systems may be found in [Title 14, Chapter 12, Part 2 of the Manufactured Housing Act, NMSA 1978](#).
4. Accessory Structures. Accessory structure for garage, storage, recreation, sauna, hobby, greenhouse, bathhouse, or for the keeping or housing of domestic animals (e.g. barn, chicken coup, kennel run, etc.).
5. Carports.
 - (1) No carport in the front yard shall exceed twenty-six (26) feet wide by twenty-two (22) feet deep.
 - (2) In no case shall the roofline of the carport be closer than one (1) foot to any right-of-way line.
 - (3) Clear views from the carport are required for safety. No obstructions to view shall be located between three (3) feet and seven (7) feet above grade along the carport's exterior.



- (4) Carports shall not be used for storing items other than personal or company vehicles, motorcycles, or bicycles.
6. **Home Occupation.** Home occupations shall be permitted under the following conditions:
- (1) All home occupations shall be conducted so as not to be noticeable from the exterior of the dwelling.
 - (2) Traffic and delivery of goods created by the home occupation shall not exceed that normally created by residential uses.
 - (3) Parking of clients or customers shall not interfere with traffic or other surrounding residences from ingress and egress or endanger the safety of people in the area.
 - (4) A business license is obtained from the City Utility Office.
 - (5) If providing child care services, the child care provider must fulfill all Federal and New Mexico state requirements.
(Ord. 2023-533, eff. 2023-July-17; Code 2007, 26-22)

Sec. 26-2-23. Height Regulations.

The height of any building or structure shall not exceed 40 feet except that the height of any non-commercial radio or television antenna, silo or similar appurtenance may be built to a height not to exceed 65 feet above grade.

(Code 2007, 26-23)

Sec. 26-2-24. Area Regulations.

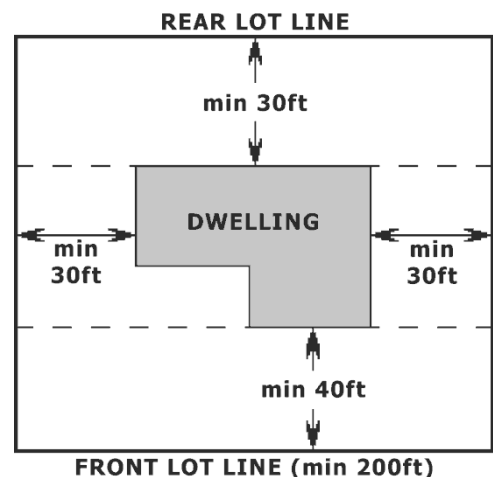
The area of any lot shall be at least 5 acres and shall have a lot width of at least 200 feet along the front yard line.

(Code 2007, 26-24)

Sec. 26-2-25. Setback Regulations.

1. **Front Setback.** Any building, mobile home, or structure shall be located at least 40 ft from the established or future street line.
2. **Side Setback.** Any building, mobile home, or structure functioning as a dwelling shall be located at least 30 ft from the side lot lines. Accessory structures cannot be located any closer than 3 ft from the side lot line.
3. **Rear Setback.** Any building, mobile home, or structure functioning as a dwelling shall be located at least 30 ft from the rear lot line. Accessory structures cannot be located any closer than 3 ft from the rear lot line.

(Code 2007, 26-25)



Sec. 26-2-26. Conditional Uses.

The following uses will be permitted in the A-1 Zone provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Golf course or archery range.
2. Commercial stable, rodeo arena, polo grounds, or riding school.
3. Animal raising, other than for those which are permissive in this district and listed under the definition of "Animal Unit".
4. Kennel.
5. Plant nursery.
6. Veterinary hospital.
7. Campground or resort.
8. Institution, church, library or museum.
9. Bar in connection with another permissive or conditional use specified in this district.
10. Nursing home or Assisted Care Facilities.
11. Airports and Landing Fields with approval of the Federal Aviation Agency and operated in compliance with Federal Regulations.
12. Mining - Mineral extraction or raw material and materials extracted from the immediate district provided the land is left reclaimed when mining is completed.
13. Cemeteries – providing that the lot is 10 or more acres. The cemetery may include mausoleums and related monument objects provided that the mausoleums or monuments be a distance of at least 200 feet from every street line and the adjoining lot lines.
14. Private Clubs - Except those clubs where firearms are used and except that a club site shall not be used for a primary commercial enterprise.
15. Hospitals and Educational Institutions - Provided that the building shall be located on sites having at least five (5) acres.
16. Booster Stations, Transformers, or Pumping Stations - Located on the alignment necessary for transmission of the product (electric, gas, oil, sewer, or water), provided that proper access and passage of vehicles is provided for purpose of construction and maintenance of station.

(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-26)

Secs. 26-2-27 to 26-2-30. Reserved.

DIVISION 3. R-1 : SINGLE FAMILY DWELLING DISTRICT

Sec. 26-2-31. In General.

This district is regulated to permit single-family residential development, certain structures and land uses required to serve governmental, educational, non-commercial recreation, public utility installations, and other compatible public needs.

No residence shall be built on any lot in this district unless said lot also satisfies the area requirements for water and sewerage established by the New Mexico Environmental Improvement Division.

No building, structure or land use shall be used, altered, or created for any purpose other than those designated for this district. Any structure that does not satisfy the Uniform Building Code adopted by the City of Aztec and enforced in Aztec by inspectors, is prohibited from being erected or stored in this district.

No truck over one-ton rated capacity shall be stored or parked in this district, excluding recreational or emergency type vehicles used for such purposes. For these vehicle types, the lot is limited to one (1) recreational or emergency vehicle and if parked for more than a twenty-four (24) hour period, the vehicle must be stored or parked in the side or rear set-back area.

(Code 2007, 26-31)

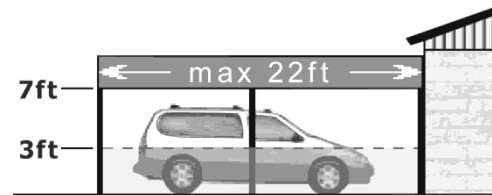
Sec. 26-2-32. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Single Family Dwelling. The dwelling unit must contain at least eight hundred (800) square feet of floor space on a permanent foundation. Trailer houses, mobile homes and motor homes are not permitted unless they comply with the application codes and standards as provided in the [Manufactured Housing Act \(Chapter 60, Article 14, NMSA 1978\)](#), Housing and Urban Development Zone Code II, and the Uniform Building Code.
2. Manufactured Homes. Each manufactured home must meet the definition of a Manufactured Home and be installed consistent with the [Manufactured Housing Act \(Chapter 60, Article 14, NMSA 1978\)](#) and the regulations relating to ground level installation on a permanent foundation and ground anchors. Trailer houses, mobile homes and motor homes are specifically excluded whether or not the wheels have been removed. Manufactured one family dwellings units shall be subject to the following standards:
 - (1) Principal buildings and accessory structures shall conform to all applicable City, State, and Federal codes and ordinances. (Housing and Urban Development District Code II, or the Uniform Building Code. See [[3-21A-1 to 3-21A-8 NMSA 1978](#)]).
 - (2) Such dwellings will be permanently attached to a foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, a perimeter wall will be constructed of durable materials and shall also meet local requirements with respect to materials, construction and necessary foundations below the efforts line. Any such wall shall also provide an appearance, which is compatible with the dwelling and site built homes in the area.
 - (3) Such dwellings shall provide a minimum width of twenty-four (24) feet and a minimum depth of thirty-six (36) feet.

- (4) Such dwellings shall have an overhang or eaves as required by the building code of residential dwellings or similar to the site-built dwelling units on the adjacent properties or in the surrounding residential neighborhood.
- (5) Such dwellings shall be provided with exterior finish materials similar to the site-built dwelling on adjacent properties or in the surrounding residential neighborhood.
- (6) Such dwellings shall have a roof design and roofing materials similar to the site-built dwelling units on the adjacent properties or in the surrounding residential neighborhood.
- (7) Such dwellings shall have an exterior building wall configuration which represents an average width-to-depth ratio which does not exceed three to one (3:1), or is in reasonable conformity with the configuration of site-built dwelling units on the adjacent properties or in the surrounding residential neighborhood.
- (8) All portions of any hitches or other transporting devices which extend beyond the vertical plane formed by the outer side walls of the dwelling shall be removed to a point where they are totally obscured by a perimeter foundation or finished exterior wall.
- (9) Proposals for manufactured one family dwelling unit shall follow the procedures set forth below:
- (a) Applications to permit manufactured one-family dwelling units shall be submitted to the Community Development Department who may require the applicant to furnish such plans, photographs, elevations and similar documentation as deemed necessary to permit a complete review and evaluation of the proposal.
 - (b) In reviewing any such proposed dwelling unit with respect to items 2(1) through 2(8) above, architectural variation shall not be discouraged but reasonable compatibility with the character of residential dwelling units shall be provided, hereby protecting the economic welfare and property of surrounding residential areas and the City of Aztec.
 - (c) Should the Community Development Department find that any such dwelling unit does not conform with all the above conditions and standards, the proposal shall be denied. The applicant may appeal the code enforcement officer's decisions by requesting a public hearing before the City Commission.
3. Accessory Structure. Accessory structure for garage, storage, recreation, sauna, hobby, greenhouse, bathhouse, or for the keeping or housing of domestic pets (e.g. chicken coup and kennel runs/enclosures), so long as the accessory structure is not being used for commercial use and meets property setbacks. Antennas (non-commercial) are permitted.
4. Carports.

- (1) No carport in the front yard shall exceed twenty-six (26) feet wide by twenty-two (22) feet deep.
- (2) In no case shall the roofline of the carport be closer than one (1) foot to any right-of-way line.



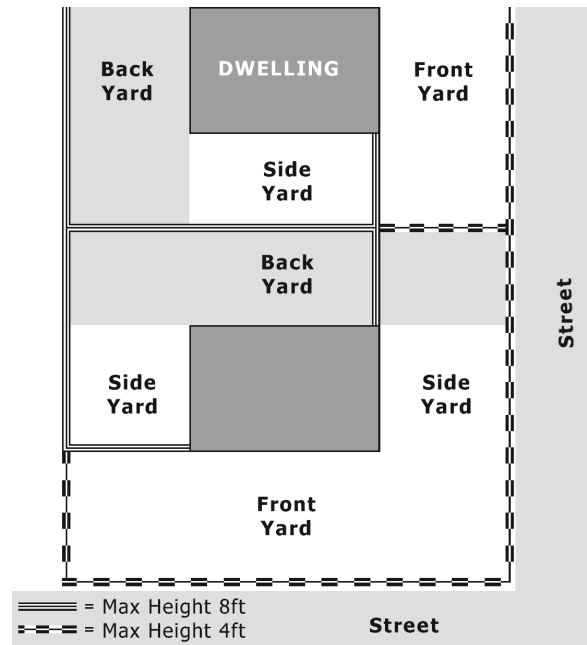
- (3) Clear views from the carport are required for safety. No obstructions to view shall be located between three (3) feet and seven (7) feet above grade along the carport's exterior.
 - (4) Carports shall not be used for storing items other than personal or company vehicles, motorcycles, or bicycles.
5. Home Occupation. Home occupations shall be permitted under the following conditions:
- (1) All home occupations shall be conducted so as not to be noticeable from the exterior of the dwelling.
 - (2) Traffic and delivery of goods created by the home occupation shall not exceed that normally created by residential uses.
 - (3) Parking of clients or customers shall not interfere with traffic or other surrounding residences from ingress and egress or endanger the safety of people in the area.
 - (4) A business license is obtained from the City Utility Office.
 - (5) If providing child care services, the child care provider must fulfill all Federal and New Mexico state requirements.
6. Boat, Motor Home, and/or Trailer. Outside storage of a boat, motor home, and/or trailer, not exceeding twelve feet in height, is permitted within the side yard or rear yard setback of a lot containing a dwelling under the following conditions:
- (1) The boat, motor home, and/or trailer stored outside in the side yard is placed on the lot behind the front building line of an existing dwelling or behind the front yard setback line, whichever is further from the street, and cannot be placed within a front yard setback area or within public roadway, street, or access.
 - (2) The boat, motor home, and/or trailer is not used as a dwelling or as accessory living quarters. Exception to this rule is:
 - (a) A travel trailer or motor home being used as for temporary dwelling purposes for a maximum of fourteen (14) consecutive days.
 - (b) The trailer may be used as a dwelling with connections to any or all utilities during construction of a dwelling or structure provided use of the trailer is limited to a maximum period of six months. The period commencing with the date of issuance of a building permit for construction of the dwelling.
 - (3) The boat, motor home, and/or trailer is not connected to utilities, except for temporary electrical connection.
 - (4) The boat, motor home, and/or trailer is not used for storage of goods, materials, or equipment other than those items considered to be a part of the boat, motor home, and/or trailer or essential for its immediate use.

7. Animals.

- (1) No animals other than household pets and provided they are confined to private property and not allowed to enter public property except under hand leash.
- (2) Chicken hens are permissible, but must be couped (not free range, meaning they cannot roam outside of the property), cannot exceed five (5) in quantity, and cannot reside in the front yard.

8. Walls or Fences. Walls or fences are not to exceed eight (8) feet high in the back and side yard areas. Wall or fence heights are limited to a maximum of four (4) feet high in the front yard area. On corner lots, the fence in the back yard of the corner lot will not exceed four (4) feet high in that area where the back property line abuts the front yard area of an adjoining lot.

(Ord. 2023-533, eff. 2023-July-17; Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-32)



Sec. 26-2-33. Height Regulations.

All buildings and structures in this district shall be limited to thirty-five (35) feet above natural adjacent ground level.

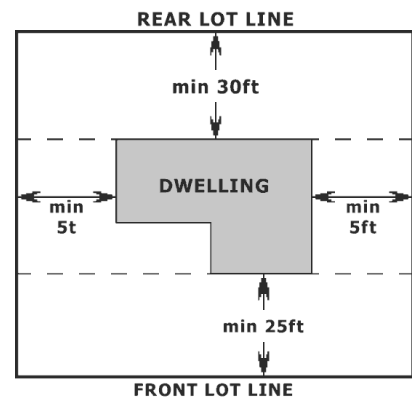
(Code 2007, 26-33)

Sec. 26-2-34. Area Regulations.

- 1. Minimum lot area shall be seven thousand (7,000) square feet.
- 2. The lot width shall be a minimum of sixty-five (65) feet measured at the actual setback of a building.
- 3. Coverage of each lot by main and accessory buildings shall not exceed fifty percent (50%).
 (Code 2007, 26-34)

Sec. 26-2-35. Setback Regulations.

- 1. Front Yard. The front yard setback shall be a minimum of twenty-five (25) feet from the established or future street right-of-way or property line.
- 2. Side Yard. The minimum side yard setback for a building, mobile home, or structure functioning as a dwelling shall be five (5) feet; however, the setback shall be fifteen (15) feet on the street side of corner lots. An additional two and



one-half (2-1/2) feet shall be added for each story in excess of one. The minimum side yard setback for an accessory structure shall be three (3) feet, however, the setback shall be fifteen (15) feet on the street side of corner lots.

3. **Rear Yard.** The rear yard setback for a building, mobile home, or structure functioning as a dwelling shall be a minimum of thirty (30) feet on single frontage or corner lots, but shall be a minimum of twenty-five (25) feet on any double frontage lot. The minimum rear yard setback for an accessory structure shall be three (3) feet.
(Code 2007, 26-35)

Sec. 26-2-36. Conditional Uses.

The following uses will be permitted in the R-1 District provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Accessory Dwelling Unit (ADU) provided the following is met:
 - (1) The ADU does not exceed 40% of the primary dwelling unit area.
 - (2) The ADU does not exceed 25% of the rear yard area.
 - (3) The ADU is frame built with material similar to the primary structure including exterior finishing, roof pitch,
 - (4) The ADU is at least ten (10) feet from the Primary Dwelling and three (3) feet from the side and rear lot lines.
 - (5) A site plan and building plan must be submitted with the Conditional Use Permit.
2. Nursery school operated within a structure that has the external appearance of a dwelling.
3. Public utility structure such as a transformer, switching, pumping, and similar technical installations essential to the operation of a public utility.
4. Real estate office in connection with a specific development providing it is of a temporary nature and is not to be used as a dwelling unit or living quarters during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended by the City Commission.
5. Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six (6) months, and further provided that it is limited to a period of one (1) year.
6. Recreational facility (non-profit), such as community center, swimming pool, tennis club, provided it shall be located on an area of at least one acre.
7. Golf course provided it shall be located on a tract of land suitable in size and that issues of traffic and parking are addressed.
8. Church.
(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-36)

Secs. 26-2-37 to 26-2-40. Reserved.

DIVISION 4. R-2 : MULTIPLE-FAMILY DWELLING DISTRICT

Sec. 26-2-41. In General.

This district is regulated to allow most uses permitted in the R-1 district, multi-family dwellings, apartments, condominiums, and town houses.

No building, structure or land use shall be used, altered or created for any purpose other than those designated for this district.

(Code 2007, 26-41)

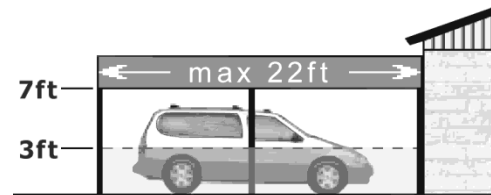
Sec. 26-2-42. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Single Family Dwelling. The dwelling unit must contain at least eight hundred (800) square feet of floor space on a permanent foundation. Trailer houses, mobile homes and motor homes are not permitted unless they comply with the application codes and standards as provided in the [Manufactured Housing Act \(Chapter 60, Article 14, NMSA 1978\)](#), Housing and Urban Development Zone Code II, and the Uniform Building Code.
2. Apartments or Multi-family Dwellings or Dwelling Groups. Apartments, multi-family dwellings or dwelling units are permitted provided that the buildings do not occupy over one-half (1/2) of the total lot area and each contains a minimum of six hundred (600) square feet of floor area.
3. Condominiums or Town Houses. Attached single family dwellings known as Condominiums or Town Houses are permitted provided that each dwelling unit must contain a minimum of eight hundred (800) square feet of floor space of a permanent nature. Trailer houses, mobile homes and motor homes are specifically excluded whether or not the wheels have been removed.
4. Accessory Structure. Accessory structure for garage, storage, recreation, sauna, hobby, greenhouse, bathhouse, or for the keeping or housing of domestic pets, so long as the accessory structure is not being used for commercial use. Antennas (non-commercial) are permitted.
5. Carports.

(1) No carport in the front yard shall exceed twenty-six (26) feet wide by twenty-two (22) feet deep.

(2) In no case shall the roofline of the carport be closer than one (1) foot to any right-of-way line.



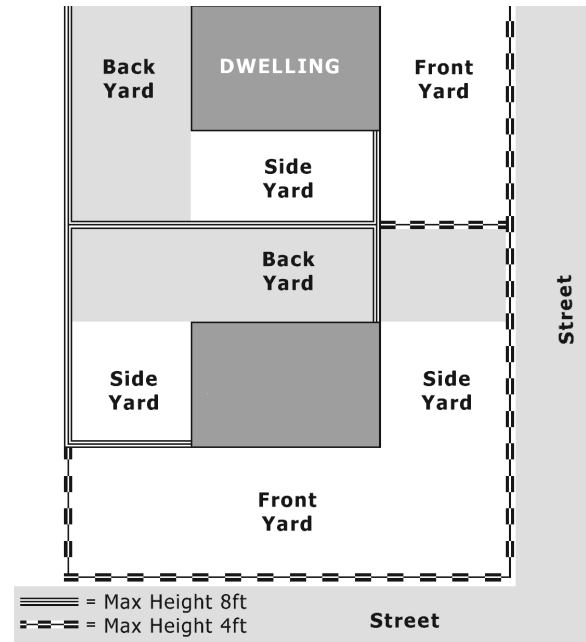
(3) Clear views from the carport are required for safety. No obstructions to view shall be located between three (3) feet and seven (7) feet above grade along the carport's exterior.

(4) Carports shall not be used for storing items other than personal or company vehicles, motorcycles, or bicycles.

6. Home Occupation. Home occupations shall be permitted under the following conditions:
- (1) All home occupations shall be conducted so as not to be noticeable from the exterior of the dwelling.
 - (2) Traffic and delivery of goods created by the home occupation shall not exceed that normally created by residential uses.
 - (3) Parking of clients or customers shall not interfere with traffic or other surrounding residences from ingress and egress or endanger the safety of people in the area.
 - (4) A business license is obtained from the City Utility Office.
 - (5) If providing child care services, the child care provider must fulfill all Federal and New Mexico state requirements.
7. Boat, Motor Home, and/or Trailer. Outside storage of a boat, motor home, and/or trailer, not exceeding twelve feet in height, is permitted within the side yard or rear yard setback of a lot containing a dwelling under the following conditions:
- (1) The boat, motor home, and/or trailer stored outside in the side yard is placed on the lot behind the front building line of an existing dwelling or behind the front yard setback line, whichever is further from the street, and cannot be placed within a front yard setback area or within public roadway, street, or access.
 - (2) The boat, motor home, and/or trailer is not used as a dwelling or as accessory living quarters. Exception to this rule is:
 - (a) A travel trailer or motor home being used as for temporary dwelling purposes for a maximum of fourteen (14) consecutive days.
 - (b) The trailer may be used as a dwelling with connections to any or all utilities during construction of a dwelling or structure provided use of the trailer is limited to a maximum period of six (6) months. The period commencing with the date of issuance of a building permit for construction of the dwelling.
 - (3) The boat, motor home, and/or trailer is not connected to utilities, except for temporary electrical connection.
 - (4) The boat, motor home, and/or trailer is not used for storage of goods, materials, or equipment other than those items considered to be a part of the boat, motor home, and/or trailer or essential for its immediate use.
8. Animals.
- (1) No animals other than household pets and provided they are confined to private property and not allowed to enter public property except under hand leash.
 - (2) Chicken hens are permissible where the R-2 resident has their own private back/side yard, but must be couped (not free range, meaning they cannot roam outside of the property), cannot exceed five (5) in quantity, and cannot reside in the front yard.

9. Walls or Fences. Walls or fences are not to exceed eight (8) feet high in the back and side yard areas. Wall or fence heights are limited to a maximum of four (4) feet high in the front yard area. On corner lots, the fence in the back yard of the corner lot will not exceed four (4) feet high in that area where the back property line abuts the front yard area of an adjoining lot.

(Ord. 2023-533, eff. 2023-July-17; Code 2007, 26-42)



Sec. 26-2-43. Height Regulations.

Maximum height of any building or structure excepting a flagpole, antenna, public utility pole or similar element shall be thirty-five (35) feet provided that all buildings or structures over thirty-five (35) feet high shall be located a minimum distance from the nearest property line equal to their height. Maximum height of any antenna, flagpole, public utility pole or similar element shall be sixty-five (65) feet.

(Code 2007, 26-43)

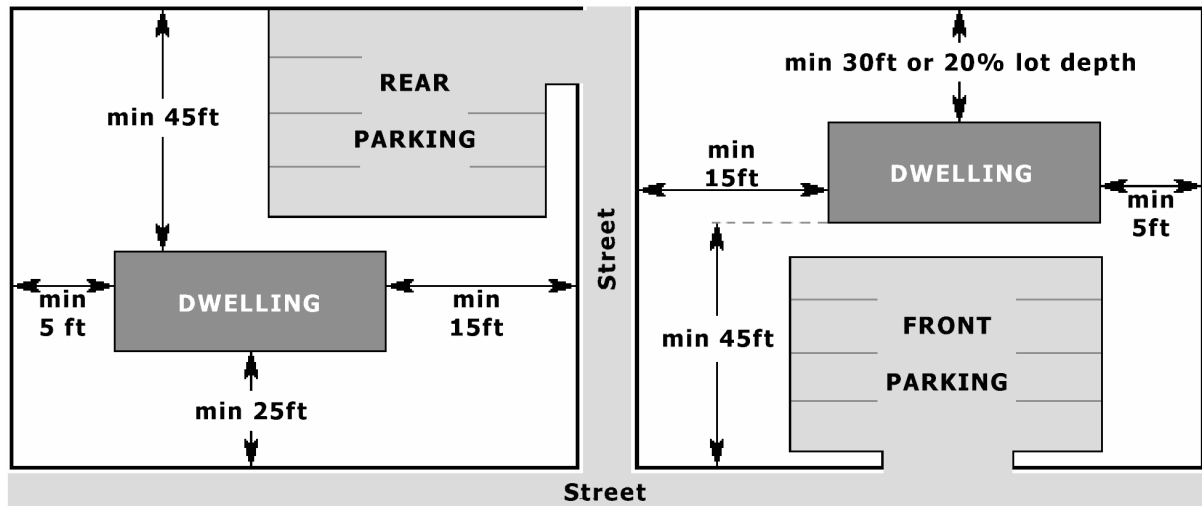
Sec. 26-2-44. Area Regulations.

1. Minimum lot area shall be five thousand (5,000) square feet.
2. Lot width shall be a minimum of fifty (50) feet measured at the actual building setback.

(Code 2007, 26-44)

Sec. 26-2-45. Setback Regulations.

1. Front Yard. The front yard setback shall be at least twenty-five (25) feet with off-street parking at the side or rear of buildings or at least forty-five (45) feet with parking intended to be located in the front setback area.
2. Side Yard. The minimum side yard setback for single story building functioning as a dwelling shall be five (5) feet on any interior lot. The minimum side setback on a corner shall be five (5) feet for the interior side and fifteen (15) feet for the side abutting a public or private road or street. Side yard setback shall be an additional two and one-half (2-1/2) feet per story in excess of one story. The minimum side yard setback for an accessory structure shall be three (3) feet, however, the setback shall be fifteen (15) feet on the street side of corner lots.
3. Rear Yard. The rear yard setback shall be a minimum of thirty (30) feet or 20% of lot depth whichever is less, except when off-street parking will be located in the rear yard then forty-five (45) feet minimum setback will be required from an alley, private access easement or rear lot line. The minimum rear yard setback for an accessory structure shall be three (3) feet.



4. **Building Offsets.** All buildings shall be separated by a distance equal to the height of the highest adjoining building or flammable structure, otherwise the group of buildings will be connected by covered walks.

(Code 2007, 26-45)

Sec. 26-2-46. Conditional Uses.

The following conditional uses permitted but only through review and approval by the Governing Body.

1. Nursery school operated within a structure that has the external appearance of a dwelling.
2. Public utility structure such as a transformer, switching, pumping, and similar technical installations essential to the operation of a public utility.
3. Real estate office in connection with a specific development providing it is of a temporary nature and is not to be used as a dwelling unit or living quarters during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended by the City Commission.
4. Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six months, and further provided that it is limited to a period of one year.
5. Recreational facility (non-profit), such as community center, swimming pool, tennis club, provided it shall be located on an area of at least one acre.
6. Golf course provided it shall be located on a tract of land suitable in size and that issues of traffic and parking are addressed.
7. Church.
8. Hospital or clinic, but not animal hospital or clinic, or mental hospital.
9. Semi-professional or professional office.

10. Boarding or lodging house.

11. Private club or lodge, excepting those the chief activity of which is customarily carried on as a business.

(Code 2007, 26-46)

Secs. 26-2-47 to 26-2-50. Reserved.

DIVISION 5. 0-1 : OFFICE AND INSTITUTIONAL DISTRICT**Sec. 26-2-51. In General.**

This district is established to permit most R-1 and R-2 uses (Sections 26-11 and 26-12), plus offices, hotels, institutional, and service uses that are compatible with high-density residential areas.

(Code 2007, 26-51)

Sec. 26-2-52. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Single Family Dwelling. The dwelling unit must contain at least eight hundred (800) feet of floor space on a permanent foundation. Trailer houses, mobile homes and motor homes are not permitted unless they comply with the application codes and standards as provided in the [Manufactured Housing Act \(Chapter 60, Article 14, NMSA 1978\)](#), Housing and Urban Development Zone Code II, and the Uniform Building Code.
2. Accessory Structure. Accessory structure for garage, storage, recreation, sauna, hobby, greenhouse, bathhouse, or for the keeping or housing of domestic pets, so long as the accessory structure is not being used for commercial use. An accessory building of less than twelve (12) feet in height may be located within five (5) feet of any building or structure which does not contain living quarters.
3. Apartments or Multi-family Dwellings or Dwelling Groups. Apartments, multi-family dwellings or dwelling units are permitted provided that the buildings do not occupy over one half of the total lot area and each contains a minimum of six hundred (600) square feet of floor area.
4. Condominiums or Town Houses. Attached single family dwellings known as Condominiums or Town Houses are permitted provided that each dwelling unit must contain a minimum of eight hundred (800) square feet of floor space of a permanent nature. Trailer houses, mobile homes and motor homes are specifically excluded whether or not the wheels have been removed.
5. Offices. Offices including clinics, medical or dental offices, professional offices, office building and office building groups that have compatible uses corresponding to high-density residential areas. Any use incidental to the office building or building group.
6. Hotel or Motel. Hotel or motel permitting any use incidental to a hotel or motel as regulated for offices in the preceding paragraph and provided further, that off-street parking is furnished at the rate of one (1) parking space for every motel or hotel room.
7. Institutions. This includes for human beings, sanitariums, libraries, museums, schools, orphanages, and homes for the aged and other similar institutional uses except disciplinary or mental institutions.
8. Animals.
 - (1) No animals other than household pets where the primary use of the property is for residential use and provided they are confined to private property and not allowed to enter public property except under hand leash.

- (2) Chicken hens are permissible where the primary use of the property is for residential use and the resident has their own private back/side yard, but must be couped (not free range, meaning they cannot roam outside of the property), cannot exceed five (5) in quantity, and cannot reside in the front yard.

(Ord. 2023-533, eff. 2023-July-17; Code 2007, 26-52)

Sec. 26-2-53. Height Regulations.

Any building, dwelling or structure shall not exceed a height equal to one and one-half (1-1/2) times the width of the widest street right-of-way upon which the property adjoins; however, where building or portion thereof is setback from the front lot line, said structure or portion thereof may be erected to an additional height equal to three (3) times such setback distances, and provided further, that any walls or fences shall be in compliance with regulations of the R-1 and R-2 Districts.

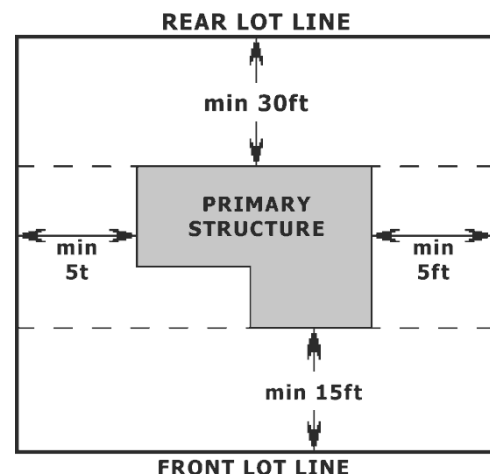
(Code 2007, 26-53)

Sec. 26-2-54. Area Regulations.

1. Minimum lot area shall be five thousand (5,000) square feet, except that any dwellings, apartment house or dwelling group containing five or more dwelling units shall have not less than one thousand (1000) square feet of lot area for each dwelling unit, and provided further, that any building shall be so located on the lot as to be no closer than fifteen (15) feet or a distance equal to the height of the highest portion of the building proper, whichever is greater, to any other building, apartment house or dwelling group on the parcel or right-of-way.
2. Lot width shall be a minimum of fifty (50) feet measured at the actual building setback.
(Code 2007, 26-54)

Sec. 26-2-55. Setback Regulations.

1. Front Yard. The front yard setback shall be at least fifteen (15) feet from the established or future street right-of-way or property line.
2. Side Yard. The minimum side yard setback for the primary structure shall be five (5) feet; however, the setback shall be fifteen (15) feet on the street side of corner lots. An additional two and one-half (2-1/2) feet shall be added for each story in excess of one. The minimum side yard setback for an accessory structure shall be three (3) feet, however, the setback shall be fifteen (15) feet on the street side of corner lots.



3. Rear Yard. The rear yard setback for the primary structure shall be a minimum of thirty (30) feet on single frontage or corner lots, but shall be a minimum of twenty-five (25) feet on any double frontage lot. The minimum rear yard setback for an accessory structure shall be three (3) feet.

(Code 2007, 26-55)

Sec. 26-2-56. Conditional Uses.

The following uses will be permitted in the O-1 District provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Nursery school operated within a structure that has the external appearance of a dwelling.
2. Public utility structure such as a transformer, switching, pumping, and similar technical installations essential to the operation of a public utility.
3. Real estate office in connection with a specific development providing it is of a temporary nature and is not to be used as a dwelling unit or living quarters during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended by the City Commission.
4. Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six (6) months, and further provided that it is limited to a period of one year.
5. Recreational facility (non-profit), such as community center, swimming pool, tennis club, provided it shall be located on an area of at least one acre.
6. Golf course provided it shall be located on a tract of land suitable in size and that issues of traffic and parking are addressed.
7. Church, provided a development plan is submitted and approved as required in the PUD district.
8. Hospital or clinic, but not animal hospital or clinic, or mental hospital.
9. Boarding or lodging house.
10. Private club or lodge, excepting those the chief activity of which is customarily carried on as a business.
11. Personal services, permitting such services as beauty shops, barber shops, massage parlors, auditors, and other similar activities not normally involving a tangible retail or wholesale product.
12. Mortuary, provided ample off-street parking is included with the facility at the rate of one (1) space for each two hundred (200) square feet of floor area plus one (1) space for each five (5) seats in the auditorium or chapel, and provided further, that access and egress be limited to two (2) driveways in locations approved by the City Manager and that all drives and off-street parking areas shall be surfaced with gravel, oil, or other higher type of paving surfacing. Any illumination or outside lighting shall be so arranged as to reflect away from contiguous R-1 and R-2 lots.
13. Studios, including photography, music or dance of a commercial nature, provided all musical activities are confined within the building or structure.

(Ord. 2018-468, eff. 2018-Mar-07; Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-56)

Secs. 26-2-57 to 26-2-60. Reserved.

DIVISION 6. C-1 : LIMITED RETAIL / NEIGHBORHOOD COMMERCIAL DISTRICT**Sec. 26-2-61. In General.**

This district is established as a mixed use neighborhood commercial district. An activity permissible in this district should attempt to locate in or near the City's "Central Business District". This district should contain the major bulk of the shopper's goods, specialty goods and professional services needed to satisfy the day-to-day requirements of the City's population. The district should also encourage in-fill housing, institutional uses, public buildings and spaces.
(Code 2007, 26-61)

Sec. 26-2-62. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Accessory Structures. Accessory structures including accessory living quarters which are units permitted on the same parcel of land or within the principal building with a conforming or non-conforming use, provided that such unit is not used as a commercial or industrial unit, that no other residential dwelling unit is located on the same parcel, and that detached units are located at least fifteen (15) feet from any other structure and is provided with water, sewer, and electrical service. Accessory Living quarters shall be permitted within the C-1 District but limited to the following:
 - (1) Accessory living quarters are secondary in use to the principal structure.
 - (2) No accessory building shall be used unless the principle building is being used.
 - (3) Accessory living quarters may be located within a second or third story of the primary use structure or the rear twenty-five percent (25%) of the primary structure.
 - (4) Accessory living quarters in the rear yard or behind the principle structure must be of a permanent nature, frame built with similar exterior construction materials as the principal structure.
2. Offices. Offices including clinics, medical or dental offices, professional offices, office building and office building groups that have compatible uses corresponding to high-density residential areas. Any use incidental to the office building or building group.
3. Hotel or Motel. Hotel or motel permitting any use incidental to a hotel or motel as regulated for offices in the preceding paragraph and provided further, that off-street parking is furnished at the rate of one (1) parking space for every motel or hotel room.
4. Institutions. This includes for human beings, sanitariums, libraries, museums, schools, orphanages, and homes for the aged and other similar institutional uses except disciplinary or mental institutions.
5. Retail and Service Establishments. This includes such facilities as a bank, barber shop, bakery, stationery store, book store, dry goods store, clothing store, tailor shop, millinery shop, drug store, laundry or dry cleaning, prescription store, medical and recreational cannabis dispensaries, gift shop, florist, furniture store, service station, building supplies, hardware, appliance, beauty shop, jewelry, package liquor store, notions or sundry store, photography, art supplies, radio or television shops, and other similar type establishments. Outdoor storage is not permitted in this district unless surrounded by a solid wall or fence between six to eight (6 to 8) feet in height.

6. Temporary Stands. Temporary stands are permitted provided that such stands shall be limited to a maximum period of sixty (60) days and shall be confined to the sale of Christmas trees, fireworks, seasonal fruits and vegetables, and other temporary or seasonal retail sales.
7. Studios. Studios may include photography, music or dance of a commercial nature, provided all musical activities are confined within the building or structure.
8. Mortuary.
(Ord. 2021-517, eff. 2021-Oct-20; Ord. 2018-487, eff. 2019-Feb-19; Code 2007, 26-62)

Sec. 26-2-63. Height Regulations.

Any building, dwelling or structure shall not exceed a height equal to one and one-half (1-1/2) times the width of the widest street right-of-way upon which the property adjoins; however, where building or portion thereof is setback from the front lot line, said structure or portion thereof may be erected to an additional height equal to three (3) times such setback distances, and provided further, that any walls or fences shall be in compliance with regulations of the R-1 and R-2 Districts.

(Code 2007, 26-63)

Sec. 26-2-64. Area Regulations.

There are no lot size or area restrictions placed on C-1 District.

(Code 2007, 26-64)

Sec. 26-2-65. Setbacks Regulations.

1. Front Setback. No front yard required for non-residential buildings.
2. Side Setback. No side yard required for non-residential buildings except that on a lot abutting a residential district, there shall be a side yard of not less than fifteen (15) feet.
3. Rear Setback. No rear yard required except on a lot abutting a residential district, there shall be a rear yard of not less than thirty (30) feet.

(Code 2007, 26-65)

Sec. 26-2-66. Conditional Uses.

The following uses will be permitted in the C-1 District provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Nursery school operated within a structure that has the external appearance of a dwelling.
2. Public utility structure such as a transformer, switching, pumping, and similar technical installations essential to the operation of a public utility.
3. Real estate office in connection with a specific development providing it is of a temporary nature and is not to be used as a dwelling unit or living quarters during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended by the City Commission.

4. Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six (6) months, and further provided that it is limited to a period of one year.
5. Recreational facility (non-profit), such as community center, golf course, swimming pool, tennis club, provided it shall be located on an area of at least one acre.
6. Hospital or clinic, but not animal hospital or clinic, or mental hospital.
7. Boarding or lodging house.
8. Theaters and commercial auditorium.
9. Amusement centers, including dance halls, nightclubs, bowling alleys, billiard halls, boxing arenas, miniature golf course, games of skill and other similar activities.
10. Multiple Family Dwellings designed for two or more family units with the number of families in residence not exceeding the number of dwelling units provided. This may include apartments, duplex, townhouses and condominiums.
(Ord. 2018-468, eff. 2018-Mar-07; Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-66)

Sec. 26-2-67 to 26-2-70. Reserved.

DIVISION 7. C-2 : GENERAL COMMERCIAL AND WHOLESALE DISTRICT**Sec. 26-2-71. In General.**

This district is established to permit the uses specified under the C-1 District, plus commercial activities of both retail and wholesale nature, designed to serve the community or tourists. This district includes those uses normally adjacent to a central business district, and of a magnitude not normally compatible with residential areas. Some minor industrial usage not associated with objectionable noise and activities are permitted.

(Code 2007, 26-71)

Sec. 26-2-72. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Accessory Structures. Accessory structures including accessory dwelling units which are units permitted on the same parcel of land or within the principal building with a conforming or non-conforming use, provided that such unit is not used as a commercial or industrial unit, that no other residential dwelling unit is located on the same parcel, and that detached units are located at least fifteen (15) feet from any other structure and is provided with water, sewer, and electrical service. and accessory dwelling units shall be permitted within the C-1 District but limited to the following:
 - (1) Accessory dwelling units are secondary in use to the principal structure.
 - (2) No accessory building shall be used unless the principle building is being used.
 - (3) Accessory dwelling units may be located within a second or third story of the primary use structure or the rear twenty-five percent (25%) of the primary structure.
 - (4) Accessory living quarters in the rear yard or behind the principle structure must be of a permanent nature, frame built with similar exterior construction materials as the principal structure.
2. Offices. Offices including clinics, medical or dental offices, professional offices, office building and office building groups that have compatible uses corresponding to high-density residential areas. Any use incidental to the office building or building group.
3. Hotel or Motel. Hotel or motel permitting any use incidental to a hotel or motel as regulated for offices in the preceding paragraph and provided further, that off-street parking is furnished at the rate of one (1) parking space for every motel or hotel room.
4. Institutions. This includes for human beings, sanitariums, libraries, museums, schools, orphanages, and homes for the aged and other similar institutional uses except disciplinary or mental institutions.
5. Retail and Service Establishments. This includes such facilities as a bank, barber shop, bakery, stationery store, book store, dry goods store, clothing store, tailor shop, millinery shop, drug store, laundry or dry cleaning, prescription store, medical and recreational cannabis dispensaries, gift shop, florist, furniture store, service station, building supplies, hardware, appliance, beauty shop, jewelry, package liquor store, notions or sundry store, photography, art supplies, radio or television shops, and other similar type establishments. Outdoor storage is not permitted in this district unless surrounded by a solid wall or fence between six to eight (6 to 8) feet in height.

6. Retail and Wholesale Stores, Businesses or Shops. These businesses allow for the manufacturing, compounding, processing, assembling or treating of products including such activities as carpentry, plumbing, sheet metal working, upholstering, sign painting, rubber or metal stamp manufacturing, interior decoration, catering, baking, jewelry or curio making, tin smithing, and printing provided such activities shall be conducted within an enclosed building having business, that the number of persons engaging in the manufacturing process or assembling shall not be more than ten (10), not including office, clerical or delivery personnel; and provided further, that any activities or product on such premises shall not be objectionable, due to odor, dust, smoke, noise, vibration or other cause.
7. Wholesale Facilities. Such facilities provided that a wall of at least seven (7) feet in height is surrounding any outdoor storage area shall be required adjacent to any residential area, more restrictive district, motel, tourist court, cafe, restaurant or outdoor recreation area which existed at the time the wholesale business is established.
8. Temporary Stands. Temporary stands are permitted provided that such stands shall be limited to a maximum period of sixty (60) days and shall be confined to the sale of Christmas trees, fireworks, seasonal fruits and vegetables, and other temporary retail sales.
9. Studios. Studios may including photography, music or dance of a commercial nature, provided all musical activities are confined within the building or structure.
10. Mortuary.
11. Amusement Enterprises. This can including such activities as in-door theater, billiard parlor, bowling alley, sports arena, dance hall, auditorium, miniature golf course, commercial swimming pool and other similar facilities, provided any exterior lighting shall be so arranged as not to reflect into any contiguous lower district.
12. Micro Commercial Cannabis Cultivation (up to 200 mature plants at one time). This includes the growing of commercial cannabis with the following setbacks and requirements located Sec. 26-3-203.
13. Automotive, Farm Implement or Trailer Sales. This is permitted provided that any exterior or outdoor area shall be surfaced with gravel, oil or other high type paving, that all repair of automobiles or trailers shall be conducted within a completely enclosed building, and provided further, that a solid fence or wall shall be maintained at a height of six to eight (6 to 8) feet around all outdoor storage areas including those where inoperative motor vehicles are stored, and along contiguous lots having a more restrictive district, or a motel, restaurant, cafe or other tourist oriented business, or a mobile home park.
(Ord. 2021-517, eff. 2021-Oct-20; Ord. 2018-487, eff. 2019-Feb-19; Code 2007, 26-72)

Sec. 26-2-73. Height Regulations.

Any building, dwelling or structure shall not exceed a height equal to one and one-half (1-1/2) times the width of the widest street right-of-way upon which the property adjoins; however, where building or portion thereof is setback from the front lot line, said structure or portion thereof may be erected to an additional height equal to three (3) times such setback distances, and provided further, that any walls or fences shall be in compliance with regulations of the R-1 and R-2 Districts.

(Code 2007, 26-73)

Sec. 26-2-74. Area Regulations.

There are no lot size or area restrictions placed on C-2 District.

(Code 2007, 26-74)

Sec. 26-2-75. Setback Regulations.

1. Front Setback. No front yard required for non-residential buildings.
2. Side Setback. No side yard required for non-residential buildings except that on a lot abutting a residential district, there shall be a side yard of not less than fifteen (15) feet.
3. Rear Setback. No rear yard required except on a lot abutting a residential district, there shall be a rear yard of not less than thirty (30) feet.

(Code 2007, 26-75)

Sec. 26-2-76. Conditional Uses.

The following uses will be permitted in the C-2 District provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Nursery school operated within a structure that has the external appearance of a dwelling.
2. Public utility structure such as a transformer, switching, pumping, and similar technical installations essential to the operation of a public utility.
3. Real estate office in connection with a specific development providing it is of a temporary nature and is not to be used as a dwelling unit or dwelling units during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended by the City Commission.
4. Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six (6) months, and further provided that it is limited to a period of one year.
5. Recreational facility (non-profit), such as community center, golf course, swimming pool, tennis club, provided it shall be located on an area of at least one acre.
6. Hospital or clinic, but not animal hospital or clinic, or mental hospital.
7. Boarding or lodging house.
8. Private club or lodge, excepting those the chief activity of which is customarily carried on as a business.
9. Minor industrial activities including such items as feed or fuel storage and sales, contractors equipment, storage rental or sales, radio or television transmitters, tires recapping or re-treading, lumber yards, cleaning or molding mills, and other similar light manufacturing processes, enclosed within the building and that any objectionable noise or odor shall be confined to the premises and provided further that the same is not contrary to general City and State laws.

10. Automobile wrecking yard, provided all activities are conducted within an enclosed building or within an outdoor area enclosed by a solid fence, wall or hedge at least seven (7) feet in height, and that all wrecked automobile bodies shall be stored on the ground, and provided further, that such yard shall be at least one hundred fifty (150) feet from residential or O-1 District, motel, restaurant or cafe, and provided further, that the same conforms to all City and State regulations.
11. Transportation terminal or trucks stop provided that suitable driveways and access locations are provided which will be acceptable to the Planning Administrator.
12. Commercial Cannabis Cultivation Producers (up to 8,000 mature plants at one time) this includes the growing of commercial cannabis with the following setbacks and requirements located Sec. 26-3-203
13. Manufacturing of Cannabis To compound, blend, extract, infuse, package or otherwise prepare a cannabis product, product using not using volatile solvents.
14. Cannabis Testing Laboratory A person that samples collects and tests cannabis products and transports cannabis products for testing. An establishment used to test cannabis products. This establishment may involve volatile solvents.
15. Printing, publishing, lithographing, blueprinting, photostatting, and similar establishments.
(Ord. 2021-517, eff. 2021-Oct-20; Ord. 2018-468, eff. 2018-Mar-07; Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-76)

Sec. 26-2-77 to 26-2-80. Reserved.

DIVISION 8. M-1 : LIGHT MANUFACTURING DISTRICT**Sec. 26-2-81. In General.**

This district is regulated to permit the C-2 uses in addition to light manufacturing developments, but will exclude all residential uses excepting a accessory dwelling unit.

(Code 2007, 26-81)

Sec. 26-2-82. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Accessory Structures. Accessory structures including accessory living quarters which are units permitted on the same parcel of land with a conforming or non-conforming use, provided that such unit is not used as a commercial or industrial unit, that no other residential dwelling unit is located on the same parcel, and that detached units are located at least fifteen (15) feet from any other structure and is provided with water, sewer, and electrical service. Accessory Living quarters shall be permitted within the C-1 District but limited to the following:
 - (1) Accessory living quarters are secondary in use to the principal structure.
 - (2) No accessory building shall be used unless the principle building is being used.
 - (3) Accessory living quarters in the rear yard or behind the principle structure must be of a permanent nature, frame built with similar exterior construction materials as the principal structure.
2. Offices. Offices including clinics, medical or dental offices, professional offices, office building and office building groups that have compatible uses corresponding to high-density residential areas. Any use incidental to the office building or building group.
3. Hotel or Motel. Hotel or motel permitting any use incidental to a hotel or motel as regulated for offices in the preceding paragraph and provided further, that off-street parking is furnished at the rate of one (1) parking space for every motel or hotel room.
4. Institutions. This includes for human beings, sanitariums, libraries, museums, schools, orphanages, and homes for the aged and other similar institutional uses except disciplinary or mental institutions.
5. Retail and Service Establishments. This includes such facilities as a bank, barber shop, bakery, stationery store, book store, dry goods store, clothing store, tailor shop, millinery shop, drug store, laundry or dry cleaning, prescription store, medical cannabis dispensaries, gift shop, florist, furniture store, service station, building supplies, hardware, appliance, beauty shop, jewelry, package liquor store, notions or sundry store, photography, art supplies, radio or television shops, and other similar type establishments. Outdoor storage is not permitted in this district unless surrounded by a solid wall or fence between six to eight (6 to 8) feet in height.
6. Retail and Wholesale Stores, Businesses or Shops. These businesses allow for the manufacturing, compounding, processing, assembling or treating of products including such activities as carpentry, plumbing, sheet metal working, upholstering, sign painting, rubber or metal stamp manufacturing, interior decoration, catering, baking, jewelry or curio making, tinsmithing, and printing provided such activities shall be conducted within an enclosed

building having business, that the number of persons engaging in the manufacturing process or assembling shall not be more than ten (10), not including office, clerical or delivery personnel; and provided further, that any activities or product on such premises shall not be objectionable, due to odor, dust, smoke, noise, vibration or other cause.

7. Wholesale Facilities. Such facilities provided that a wall of at least seven (7) feet in height is surrounding any outdoor storage area shall be required adjacent to any residential area, more restrictive district, motel, tourist court, cafe, restaurant or outdoor recreation area which existed at the time the wholesale business is established.
8. Temporary Stands. Temporary stands are permitted provided that such stands shall be limited to a maximum period of sixty (60) days and shall be confined to the sale of Christmas trees, fireworks, seasonal fruits and vegetables, and other temporary retail sales.
9. Studios. Studios may including photography, music or dance of a commercial nature, provided all musical activities are confined within the building or structure.
10. Mortuary.
11. Amusement Enterprises. This can including such activities as in-door theater, billiard parlor, bowling alley, sports arena, dance hall, auditorium, miniature golf course, commercial swimming pool and other similar facilities, provided any exterior lighting shall be so arranged as not to reflect into any contiguous lower district.
12. Automotive, Farm Implement or Trailer Sales. This is permitted provided that any exterior or outdoor area shall be surfaced with gravel, oil or other high type paving, that all repair of automobiles or trailers shall be conducted within a completely enclosed building, and provided further, that a solid fence or wall shall be maintained at a height of six to eight (6 to 8) feet around all outdoor storage areas including those where inoperative motor vehicles are stored, and along contiguous lots having a more restrictive district, or a motel, restaurant, cafe or other tourist oriented business, or a mobile home park.
13. Signs. Regulations on signs within this district are set forth in [Chapter 20 of the City Codes](#).
14. Radio or Television Transmission. Radio or television transmittal is allowed provided that no assembly hall; studio or other place of public assembly is allowed.
15. Garages and Repair Shops. Automotive and mechanical shops providing for the repair, maintenance or renovation of automobiles, equipment or machinery and including welding shops, machinery shops and other similar facilities.
16. Public Utility Stations. Providing for the use necessary for the transmission and manufacture of services and commodities by utility companies.
17. Petroleum and Gas. Oilfield service establishments and plants permitting service stations, bulk storage plants, liquefied petroleum products, and other combustible materials, provided that the precautions required by local, State and federal controls are followed in the installation of such facility.

18. Commercial Cannabis Cultivation Producers (up to 8,000 mature plants at one time) this includes the growing of commercial cannabis with the following setbacks and requirements located Sec. 26-3-203
19. Manufacturing of Cannabis To compound, blend, extract, infuse, package or otherwise prepare a cannabis product, product using not using volatile solvents.
20. Cannabis Testing Laboratory A person that samples collects and tests cannabis products and transports cannabis products for testing. An establishment used to test cannabis products. This establishment may involve volatile solvents.
21. Manufacturing. Permitting light or minor industrial activities including tire recapping or treading, foundries, experimental or testing laboratories, blacksmith and machine shops, mold mills, concrete or cement products manufacturing, gravel and sand processing or distribution, trucking and freight transportation terminals, wrecking yards acid other similar activities provided that such uses be at least one hundred fifty (150) feet from any A-1, R-1, R-2 or O-1 District or from any existing meter, mobile home park, cafe or restaurant.
(Ord. 2021-517, eff. 2021-Oct-20; Ord. 2018-487, eff. 2019-Feb-19; Code 2007, 26-82)

Sec. 26-2-83. Height Regulations.

Maximum height of thirty-five (35) feet or two and one-half (2-1/2) stories.

(Code 2007, 26-83)

Sec. 26-2-84. Area Regulations.

There are no area requirements in this District.

(Code 2007, 26-84)

Sec. 26-2-85. Setback Regulations.

Any building or structure shall not encroach on the right-of-way line of an established or future street line, whichever is more distant from the street center line extended. Access and circulation must be provided adjacent to all structures in this District for the movement of fire protection equipment.

1. Front Setback. A front yard setback of not less than thirty (30) feet is required.
2. Side Setback. No side yard required except on a lot abutting:
 - (1) A residential district (R-1, R-2, O-1, MH), side yard of not less than fifteen (15) feet;
 - (2) An agricultural-rural district (A-1), side yard not less than thirty (30) feet.
3. Rear Setback. A rear yard setback of not less than twenty (20) feet is required.
(Code 2007, 26-85)

Sec. 26-2-86. Conditional Uses.

The following uses will be permitted in the M-1 District provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Restaurants or Cafes. Restaurants or Cafes are permitted provided that such facilities are for the use of the people working or residing within the District.
2. Rendering Plants and Slaughter Houses. Provided that such activities are completely enclosed within a building or structure, that all objectionable noise and odor is confined to the premises, and that such activity shall be at least three hundred (300) feet from any dwelling or other structure having public use, and provided further, that the area of the lot shall be not less than five (5) acres in size.
3. Special Manufacturing. Special manufacturing processes permitting the manufacturing of paints, petroleum by-products, plastics, asphalt, and other similar activities, provided that, suitable precautions are made for the protection of surrounding property and the health and welfare of residents in the District.
(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-86)

Sec. 26-2-87 to 26-2-90. Reserved.

DIVISION 9. M-2 : HEAVY MANUFACTURING DISTRICT**Sec. 26-2-91. In General.**

This district is established to permit all industrial uses and in general those uses which are obnoxious and offensive due to odor, noise, vibrations or other causes. No residential or community commercial uses are allowed in the district other than a watchman's quarters and accessory uses incidental to the principal land or building use.

(Code 2007, 26-91)

Sec. 26-2-92. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Accessory Structures. Accessory structures including accessory living quarters which are units permitted on the same parcel of land or within the principal building with a conforming or non-conforming use, provided that such unit is not used as a commercial or industrial unit, that no other residential dwelling unit is located on the same parcel, and that detached units are located at least fifteen (15) feet from any other structure and is provided with water, sewer, and electrical service. Accessory Living quarters shall be permitted within the C-1 District but limited to the following:
 - (1) Accessory living quarters are secondary in use to the principal structure.
 - (2) No accessory building shall be used unless the principle building is being used.
 - (3) Accessory living quarters may be located within a second or third story of the primary use structure or the rear twenty-five percent (25%) of the primary structure.
 - (4) Accessory living quarters in the rear yard or behind the principle structure must be of a permanent nature, frame built with similar exterior construction materials as the principal structure.
2. Offices. Offices including clinics, medical or dental offices, professional offices, office building and office building groups that have compatible uses corresponding to high-density residential areas. Any use incidental to the office building or building group.
3. Hotel or Motel. Hotel or motel permitting any use incidental to a hotel or motel as regulated for offices in the preceding paragraph and provided further, that off-street parking is furnished at the rate of one (1) parking space for every motel or hotel room.
4. Institutions. This includes for human beings, sanitariums, libraries, museums, schools, orphanages, and homes for the aged and other similar institutional uses except disciplinary or mental institutions.
5. Retail and Service Establishments. This includes such facilities as a bank, barber shop, bakery, stationery store, book store, dry goods store, clothing store, tailor shop, millinery shop, drug store, laundry or dry cleaning, prescription store, gift shop, florist, furniture store, service station, building supplies, hardware, appliance, beauty shop, jewelry, package liquor store, notions or sundry store, photography, art supplies, radio or television shops, and other similar type establishments. Outdoor storage is not permitted in this district unless surrounded by a solid wall or fence between six to eight (6 to 8) feet in height.
6. Retail and Wholesale Stores, Businesses or Shops. These businesses allow for the manufacturing, compounding, processing, assembling or treating of products including such

activities as carpentry, plumbing, sheet metal working, upholstering, sign painting, rubber or metal stamp manufacturing, interior decoration, catering, baking, jewelry or curio making, tin smithing, and printing provided such activities shall be conducted within an enclosed building having business, that the number of persons engaging in the manufacturing process or assembling shall not be more than ten (10), not including office, clerical or delivery personnel; and provided further, that any activities or product on such premises shall not be objectionable, due to odor, dust, smoke, noise, vibration or other cause.

7. Wholesale Facilities. Such facilities provided that a wall of at least seven (7) feet in height is surrounding any outdoor storage area shall be required adjacent to any residential area, more restrictive district, motel, tourist court, cafe, restaurant or outdoor recreation area which existed at the time the wholesale business is established.
8. Temporary Stands. Temporary stands are permitted provided that such stands shall be limited to a maximum period of sixty (60) days and shall be confined to the sale of Christmas trees, fireworks, seasonal fruits and vegetables, and other temporary retail sales.
9. Studios. Studios may including photography, music or dance of a commercial nature, provided all musical activities are confined within the building or structure.
10. Mortuary.
11. Amusement Enterprises. This can including such activities as in-door theater, billiard parlor, bowling alley, sports arena, dance hall, auditorium, miniature golf course, commercial swimming pool and other similar facilities, provided any exterior lighting shall be so arranged as not to reflect into any contiguous lower district.
12. Automotive, Farm Implement or Trailer Sales. This is permitted provided that any exterior or outdoor area shall be surfaced with gravel, oil or other high type paving, that all repair of automobiles or trailers shall be conducted within a completely enclosed building, and provided further, that a solid fence or wall shall be maintained at a height of six to eight (6 to 8) feet around all outdoor storage areas including those where inoperative motor vehicles are stored, and along contiguous lots having a more restrictive district, or a motel, restaurant, cafe or other tourist oriented business, or a mobile home park.
13. Radio or Television Transmission. Radio or television transmittal is allowed provided that no assembly hall; studio or other place of public assembly is allowed.
14. Garages and Repair Shops. Automotive and mechanical shops providing for the repair, maintenance or renovation of automobiles, equipment or machinery and including welding shops, machinery shops and other similar facilities.
15. Public Utility Stations. Providing for the use necessary for the transmission and manufacture of services and commodities by utility companies.
16. Petroleum and Gas. Oilfield service establishments and plants permitting service stations, bulk storage plants, liquefied petroleum products, and other combustible materials, provided that the precautions required by local, State and federal controls are followed in the installation of such facility.

17. Commercial Cannabis Cultivation (up to 8,000 mature plants at one time) this includes the growing of commercial cannabis with the following setbacks and requirements located Sec. 26-3-203
18. Manufacturing of Cannabis To compound, blend, extract, infuse, package or otherwise prepare a cannabis product, product using not using volatile solvents.
19. Cannabis Testing Laboratory A person that samples collects and tests cannabis products and transports cannabis products for testing. An establishment used to test cannabis products. This establishment may involve volatile solvents.
20. Manufacturing. Permitting light or minor industrial activities including tire recapping or treading, foundries, experimental or testing laboratories, blacksmith and machine shops, mold mills, concrete or cement products manufacturing, gravel and sand processing or distribution, trucking and freight transportation terminals, wrecking yards acid other similar activities provided that such uses be at least one hundred fifty (150) feet from any A-1, R-1, R-2 or O-1 District or from any existing meter, mobile home park, cafe or restaurant.
21. Industrial Activities. All industrial activities are permitted except those of a dangerous or highly objectionable nature, such as explosives, glue, tanneries, extensive slaughtering activities, and other similar facilities permitted only under Conditional Uses.
22. Places of Public Assembly. No development or use within this District shall be allowed which entail areas of public use or assembly,
(Ord. 2021-517, eff. 2021-Oct-20; Code 2007, 26-92)

Sec. 26-2-93. Height Regulations.

There shall be no height limitation in this District.
(Code 2007, 26-93)

Sec. 26-2-94. Area Regulations.

There shall be no area requirements within this District.
(Code 2007, 26-94)

Sec. 26-2-95. Setback Regulations.

Any building or structure shall not encroach on the right-of-way line of an established or future street line, whichever is more distant from the street center line extended. Access and circulation must be provided adjacent to all structures in this District for the movement of fire protection equipment.

1. Front Setback. A front yard setback of not less than forty (40) feet is required.
2. Side Setback. No side yard required except on a lot abutting:
 - (1) A residential district (R-1, R-2, O-1, MH), side yard of not less than fifteen (15) feet;
 - (2) An agricultural-rural district (A-1), side yard not less than thirty (30) feet.
3. Rear Setback. A rear yard setback of not less than twenty (20) feet is required.
(Code 2007, 26-95)

Sec. 26-2-96. Conditional Uses.

The following uses will be permitted in the M-2 District provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Restaurants or Cafes. Restaurants or Cafes are permitted provided that such facilities are for the use of the people working or residing within the District.
2. Rendering Plants and Slaughter Houses. Provided that such activities are completely enclosed within a building or structure, that all objectionable noise and odor is confined to the premises, and that such activity shall be at least three hundred (300) feet from any dwelling or other structure having public use, and provided further, that the area of the lot shall be not less than five (5) acres in size.
3. Special Manufacturing. Special manufacturing processes permitting the manufacturing of paints, petroleum by-products, plastics, asphalt, and other similar activities, provided that, suitable precautions are made for the protection of surrounding property and the health and welfare of residents in the District.
4. Objectionable Activities. The following objectionable activities are permitted and may include such activities as bone distillation, fat rendering, cement or lime manufacturing, explosives, fertilizer, glue, stock yards and feeding pens, extensive slaughtering operations, tanneries and hide curing, wool pulling or scouring, alfalfa processing, fertilizer mixing or manufacture, or other similar activities provided those suitable protective measures as determined by the Commission shall be imposed on the facility in advance. In addition, periodic inspections by the Code Enforcement Officer or any other city official designated by the City Manager will be conducted at the discretion of the Commission to insure compliance with any special rules or protective measures.

(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-96)

Sec. 26-2-97 to 26-2-100. Reserved.

DIVISION 10. MH : MOBILE HOME DISTRICT**Sec. 26-2-101. In General.**

This district is regulated to permit one mobile home and normal residential accessory uses, but not another dwelling in each lot, or lot of record provided setback requirements could be met. Each lot must be served by community water and sewer service.

(Code 2007, 26-101)

Sec. 26-2-102. Uses Permitted.

The following uses are permitted without prior approval of the Commission:

1. Mobile Home Subdivision. Provided that:

(1) One mobile home will be allowed on each lot (not in addition to another dwelling) in this zoning district subject to the following provisions:

(a) That each mobile home complies with the application codes and standards as provided the [Manufactured Housing Act \(Chapter 60, Article 14, NMSA 1978\)](#) and/or Housing and Urban Development Zone Code II, and/or the Uniform Building Code.

(b) A land use permit is first obtained from the City of Aztec before placing the mobile home on the lot.

(c) Within 90 days following placing the mobile home on the lot, said mobile home shall be equipped with skirting extending from the bottom of the home to the ground level.

(d) A subdivision plat has been approved by the City Commission in accordance with the City of Aztec Subdivision Regulations and all improvements are built or assurances are provided that improvements will be built in accordance with the standard construction specifications adopted by the City of Aztec.

(e) Accessory building or structure such as a canopy, carport, garage or storage building, provided said structures are of two-hour fireproof construction as specified by the applicable building code and also conform to setbacks specified by the mobile home. Additions to the principle structure shall resemble the exterior of the mobile home.

(f) Accessory uses such as a private swimming pool for residents of the lot, patio, parking, private antenna, wall, fence, bench and landscaping.

2. Mobile Home Parks. It shall be unlawful for any person to rent, lease, or sell any mobile home that is to be used as living quarters to be parked on the land under their supervision in violation of the provisions of this ordinance. Any expansion or extension of a nonconforming mobile home park, either on the same or an adjoining lot, shall be made in conformity with the provisions of this ordinance. In addition, the following must be submitted:

(1) Plot and Landscaping Plans. Plot and landscape plans shall be drawn by a land surveyor to a scale of one inch equals one hundred (1:100) feet upon Mylar or linear and shall contain the following information:

- (a) The legal description of the site, dimensions of the site perimeter, north point, and total land area within the site perimeter.
 - (b) The proposed name of the mobile home park.
 - (c) The location and width of all streets and alleys to or within the site together with walks, curbs, pavements, existing structures, existing utility easements, proposed recreation and parking areas, and proposed utilities such as gas, water, electricity, and sewer.
 - (d) The size of all proposed or existing water and sewer lines.
 - (e) The location and dimensions of all proposed accessory uses and any other proposed structures.
 - (f) The existing district of the site and the existing zoning adjacent to the site for a distance of six hundred (600) feet from the site perimeter.
 - (g) The signature of the owner and signature blanks for the signature of the Zoning Administrator or his authorized representative upon approval.
- (2) Incorporated into the plot plan or submitted as a separate exhibit there shall be a landscaping plan containing the information required by Subsection 2.d. below and a surface drainage plan showing the proposed grading contours within the mobile home park and the location and dimensions of all tile lines, culverts, catch basins, drain inlets, turf and masonry gutters, all curbs, drainage, disposal, and any existing facilities to be used for surface drainage.
- (3) The plot plan, together with the landscaping plan and the surface drainage plan or statement, shall be in compliance with regulations hereunder, and all other applicable laws and regulations, and when, upon review the City Commission shall be satisfied that there is such compliance, a building permit may be issued for the construction of the mobile home park. Upon completion of the construction of the mobile home park and a final inspection by the City, a mobile home park permit shall be issued if said construction shall have been completed in full compliance with this ordinance.
- (4) Landscaping plans shall contain the following information:
- (a) The outline of mobile home stands, patios accessory buildings, and other improvements.
 - (b) The outline of all planting beds and areas to be seeded or sodded.
 - (c) A legend for all materials, both organic and inorganic, used in landscaping the mobile home park and giving the common name of plant species and key numbers for reference to the plan.
 - (d) The location, site and species of existing trees and shrubs to be preserved, transplanted, or removed.
 - (e) The location, quantity and key number of all new plant materials to be planted; and

- (f) The details of all features pertaining to site improvements, such as retaining walls, tree walls, and other site improvement details not shown upon other drawings.
- (5) Accessory buildings and uses shall be permitted within a mobile home park, provided that:
- (a) Such buildings and uses shall, in no case, dominate, in area, extent or purpose, the principal use of the land as a mobile home park;
 - (b) Such buildings and uses shall be only for the purpose of providing services, conveniences or comforts for the occupants of the mobile home park and their guests; and
 - (c) Any advertising of such uses shall be visible primarily from within the mobile home park and shall not be displayed to the general public.
(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-102)

Sec. 26-2-103. Height Regulations.

All buildings and structures in this district shall be limited to twenty (20) feet above natural adjacent ground level.
(Code 2007, 26-103)

Sec. 26-2-104. Area Regulations.

1. Minimum lot area shall be 5,445 square feet.
2. Within a Mobile Home Park, the minimum area of the park is three (3) acres. The maximum average density shall be eight (8) mobile homes per acre or one mobile home per 5,445 square feet.
(Code 2007, 26-104)

Sec. 26-2-105. Setback Regulations.

1. Front Yard. The front yard setback, as defined by that portion of the yard that adjoins the road access to the lot (whether private or public), shall be a minimum of twenty (20) feet from the established or future street right-of-way or property line.
2. Side Yard. The minimum side yard setback shall be five (5) feet; however, the setback shall be fifteen (15) feet on the street side of corner lots. Within a Mobile Home Park, the side setbacks shall be at least fifteen (15) feet, except for mobile homes which are rated with two-hour fireproof construction as specified in the Building Code, the structure shall then be at least five (5) feet from any mobile home.
3. Rear Yard. The rear yard setback shall be a minimum of twenty (20) feet on single frontage, double frontage, or corner lots. Within a Mobile Home Park, the rear yard setback shall be at least ten (10) feet.
4. Mobile Home Park. The minimum setback along property lines of a mobile home park shall be as follows, and no structures, including mobile homes, shall be erected, constructed, or

located closer to such property lines than the minimum setback distance, unless otherwise specifically provided:

- (1) Public rights of way (excluding four lane highway): thirty (30) feet from the property line.
- (2) Public rights of way with four or more traffic lanes (excluding frontage roads): eighty-four (84) feet from the centerline of such right of way or forty (40) feet from the property line, whichever distance is greater.
- (3) Private streets: twenty-five (25) feet from the centerline of such right of way or easement or ten (10) feet from the easement boundary, whichever distance is the greater.
- (4) All other property lines: twenty (20) feet from the property line; provided that walks or fences may be erected or located closer to such property lines than the minimum setback distance.
(Code 2007, 26-105)

Sec. 26-2-106. Conditional Uses.

The following uses will be permitted in the MH District provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Nursery school operated within a structure that has the external appearance of a dwelling.
2. Public utility structure such as a transformer, switching, pumping, and similar technical installations essential to the operation of a public utility.
3. Real estate office in connection with a specific development providing it is of a temporary nature and is not to be used as a dwelling unit or living quarters during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended by the City Commission.
4. Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six months, and further provided that it is limited to a period of one year.
5. Recreational facility (non-profit), such as community center, golf course, swimming pool, tennis club, provided it shall be located on an area of at least one acre.
6. Church.
(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-106)

Sec. 26-2-107. Utilities.

Minimum requirements within each lot shall be as follows:

1. All power, telephone and cable television lines shall be placed underground.
2. Any community or private sewer or water lines shall be designed and constructed in accordance to all. No sewer or other underground utility line shall be covered or backfilled until inspected and tested by the Public Works Director or a representative official

designated by the Public Works Director of the City of Aztec. All remedial action needed to correct deficiencies of construction shall be at the expense of the property owner.

3. All mobile home laws of the State of New Mexico are complied with.
(Code 2007, 26-107)

Sec. 26-2-108. Site Conditions for Mobile Home Parks.

1. In accordance with the required surface drainage plan per Section 26-18-1 2(2), the entire ground surface within the mobile home park shall be graded and equipped in such a manner as to provide diversion of water away from buildings patios, and mobile home stands; to prevent standing water and soil saturation, which would be detrimental to structures; and to provide adequate and safe surface drainage.
2. For the purpose of preventing soil erosion and unusual and objectionable dust, exposed ground surfaces within a mobile home park, except planting beds and areas preserved in their natural state for scenic reasons, shall be paved, surfaced with gravel crushed rock, or like material; or planted in a vegetative growth capable of preventing such erosion and dust.
3. Storage facilities for large trucks, boats and recreational vehicles, other than private passenger vehicles, shall be designed in such a manner that the view of such storage facilities from property adjoining the mobile home park and from public roads shall be screened by fencing, walls, berms, or densely planted vegetation.
4. A mobile home park shall be serviced by a private street system constructed and maintained in compliance with City standards and providing safe and convenient access from abutting public streets to all mobile home spaces.
5. In all mobile home parks constructed after the effective date of this ordinance, utilities shall be installed underground.
6. Mobile home parks shall be screened from adjacent property and public sight buffers. Trees and shrubs which die after a mobile home park permit has been issued shall be replaced within six (6) months.
(Code 2007, 26-108)

Secs. 26-2-109 to 26-2-110. Reserved.

DIVISION 11. PUD : PLANNED UNIT DEVELOPMENT DISTRICT**Sec. 26-2-111. In General.**

This district provides suitable sites for uses, which are special because of infrequent occurrence, effect on surrounding property, safety hazard, or other reasons. A pre-requisite for a land tract to be considered under such land use district is that the parcel of land includes at least three (3) acres in area for commercial, residential, and public land uses or ten (10) acres for manufacturing and agriculture uses.

(Code 2007, 26-111)

Sec. 26-2-112. Procedures.

1. An application for a change to a PUD district is not specifically required to state, however any subsequent development or change in development is so required and should state the proposed use and be accompanied by a plot plan showing the location and dimensions of the property.
 - (1) If the development is to start within six (6) months from the date of approval by the Commission, a Site Development Plan and a preliminary Landscaping Plan must accompany the application. A final Landscaping Plan is required to be approved prior to the issuance of a building permit, license or tax number for the location.
 - (2) If the development of the property is not solidified within six (6) months from the date of approval by the Commission, the data specified in the paragraph above (26-19-1-1.1), the Commission prior to the issuance of a building permit, license, or this subsection must be submitted for approval by City commission for the location.
2. A decision implementing a change for the location of a PUD district should designate the specific use permitted, and a building permit shall be issued only for the specific use and in accordance with the approved Site Development Plan. The specific use shall be recorded on the District Map.
3. In approving the development application, the Community Development Department and City Commission may impose requirements as may be necessary to implement the purpose of this ordinance.
4. A certified copy of the Site Development Plan shall be kept in the City Administration Building so that it may be reviewed against an application for a building permit for any part or all of a special use.
5. The City Commission shall review the application and progress of development approximately four years from the date of approval of the application and each year thereafter until completion of the plan, and if needed open a hearing on redistricting.
6. The Community Development Director may approve minor changes to the approved Site Development Plan or Landscaping Plan if it is consistent with the use and other written requirements approved by the City Commission, if the buildings are of the same general size, the vehicular circulation is similar in its effect on adjacent property and streets, and the approving official finds that neither the City nor any person will be substantially aggrieved by the altered plan. If unsure whether these conditions apply, the Community Development Director or a designee may call for hearings by the City Commission.

(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-112)

Sec. 26-2-113. Height Regulations.

Any building, dwelling or structure shall not exceed a height equal to one and one-half (1-1/2) times the width of the widest street right-of-way upon which the property adjoins; however, where building or portion thereof is setback from the front lot line, said structure or portion thereof may be erected to an additional height equal to three (3) times such setback distances, and provided further, that any walls or fences shall be in compliance with regulations of the R-1 and R-2 Districts.

(Code 2007, 26-113)

Sec. 26-2-114. Area Regulations.

There are no area requirements within this District.

(Code 2007, 26-114)

Sec. 26-2-115. Setback Regulations.

Any building or structure associated with this use shall not encroach on the right-of-way line of an established or future street line, whichever is more distant from the street center line extended. Access and circulation around any structures must be provided for the movement of fire protection equipment. The Community Development department and City Commission may impose requirements as may be necessary to implement for the purpose of this Chapter.

(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-115)

Sec. 26-2-116. Special Uses.

1. Accessory use customarily associated with a use permitted in this district, provided it is incidental to the major use.
2. Airport.
3. Antenna (commercial) provided it is at least one hundred (100) feet from a public way.
4. Amusement park of a permanent character, including kiddieland, children's amusement park, and children's playland.
5. Church and its incidental uses, provided it is located on a collector or arterial street.
6. Drilling and production of petroleum gas, or hydrocarbons.
7. Drive-in theater, provided:
 - (1) Turning lane into the entrance that can accommodate vehicles in an amount equal to at least thirty percent (30%) of the vehicular capacity of the theater.
 - (2) A structure is at least fifty (50) feet from a street on any side where ingress or egress is permitted.
 - (3) A screen less than five hundred (500) feet from an arterial street is so located or shielded that the picture surface cannot be seen from the arterial street.
 - (4) The site is enclosed with a solid wall or fence at least six (6) feet high.

8. Golf course.
9. Golf driving range.
10. Gravel, sand, or dirt removal activity, stockpiling, processing and distribution.
11. Institution, correctional or mental.
12. Mobile home park, provided it meets the requirements of Section 26-18.
13. Open market.
14. Planned development to new housing area, including residential development, in which special use, height, area, setback, or other regulations may be imposed.
15. Race track.
16. Recreational Vehicle (RV) Park.
17. Stadium.
18. Shopping center.
(Code 2007, 26-116)

Secs. 26-2-117 to 26-2-120. Reserved.

DIVISIONS 12 TO 20. Reserved.

Secs. 26-2-121 to 26-2-209. Reserved.

DIVISION 21. AIRPORT OVERLAY ZONE (AO)

Sec. 26-2-210. Purpose.

The Airport Overlay Zone (AO) is intended to provide standards for the safe and efficient use of the Aztec Municipal Airport and to ensure the successful interface of Airport functions with those of adjacent properties and land uses. Requirements for the Airport Overlay Zone are intended to apply in conjunction with all applicable general zone district(s) and impose regulations and standards in addition to those mandated by the general zone district(s). AO Zone requirements apply whenever they are in conflict with or are more stringent than those of the general zone district.

(Ord. 2010-380, eff. 2010-Apr-21)

Sec. 26-2-211. Jurisdiction.

AO Zone standards apply to properties located within the boundaries of the Airport Overlay Zone as shown on the Official Zoning Map.

(Ord. 2010-380, eff. 2010-Apr-21)

Sec. 26-2-212. Zone Standards.

Notwithstanding any other provisions of these Regulations, no use may be made of land or water within the AO Zone in such a manner as to create a hazard to air traffic, Airport personnel or citizens, or as to otherwise endanger life or property.

1. Creation of Airport Hazards Prohibited. No variance, permit, or use shall be allowed that would create or enhance an airport hazard.
2. General Use and Operation Limitations. No use shall be permitted which:
 - (1) Creates or tends to create electrical interference to navigational devices and communication between aircraft and the Airport;
 - (2) Creates or tends to create gas, smoke, dust, glare, or other visual hazard in the atmosphere around the Airport;
 - (3) Creates or tends to create bird strike hazards;
 - (4) Creates or tends to create structures that interfere with aircraft safety; or
 - (5) Creates or tends to create any type of hazard for the Airport that would inhibit or constrain safe and acceptable airport operations or that would endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the Airport.
3. Height Limitation. The maximum height for all structures, except for the airport tower, air service buildings and facilities owned and/or operated by the Aztec Municipal Airport, shall be 35 feet above the adjacent ground level. The height of the airport tower, air service buildings and facilities owned and/or operated by the Aztec Municipal Airport shall be in accordance with the Aztec Municipal Airport Action Plan and shall be in adherence with all Federal Aviation Administration regulations and specifications.

(Ord. 2010-380, eff. 2010-Apr-21)

Sec. 26-2-213. Existing Uses.

Regulations Not Retroactive. The regulations prescribed by this Division shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to this Division as of the effective date of these Regulations, nor shall it be construed to otherwise interfere with the continuance of an existing use within the AO Zone. Nothing contained herein 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 prosecuted. No permit shall be granted that would allow the establishment or creation of an obstruction or that would permit an existing use, structure or tree to become a greater hazard to air navigation amendments thereto.

(Ord. 2010-380, eff. 2010-Apr-21)

Sec. 26-2-214. Permits, Variances and Mandatory Referral.

Prior to the issuance of permits or variances, applications shall be referred to the City of Aztec Airport Advisory Board, the Airport Manager and to the Federal Aviation Administration (FAA), Louisiana/New Mexico Airport District Office for comment. In making its determination as to whether a proposed land use is consistent with the standards of this Division, the City of Aztec shall give substantial consideration to the recommendations of the City of Aztec Airport Advisory Board, the Airport Manager and the FAA.

Permits and variances shall be allowed where it is duly found that a literal application or enforcement of zone requirements will result in an unnecessary hardship (as defined in Sec. 26-4-551) and, relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of these Regulations. The Aztec City Commission may act to grant or deny variance or permit applications without the advice of the City of Aztec Airport Advisory Board, the Airport Manager and the FAA if requested parties do not respond to the request for comment within forty-five (45) days after receipt.

(Ord. 2010-380, eff. 2010-Apr-21)

Sec. 26-2-215. Compliance with Federal Aviation Regulations (FAR) Section 77.13.

All construction or alteration requiring notice under FAR Section 77.13 shall be made to the Federal Aviation Administration in the form and format they require. A final airspace determination from the FAA of “no hazard to air navigation” or “no objection” must be obtained prior to commencing work on any construction or alteration.

(Ord. 2010-380, eff. 2010-Apr-21)

Sec. 26-2-216. Federal Aviation Administration Certification.

No person, not properly certified by the Federal Aviation Administration as a pilot, mechanic or other aviation professional, and no aircraft not certified by the Federal Aviation Administration, shall operate on or over the Airport, nor shall a mechanic or other aviation professional not properly certified by the Federal Aviation Administration operate a repair or maintenance facility on Aztec Municipal Airport premises. This restriction shall not apply to public aircraft belonging to the government of the United States or to a state, territory, possession or any political subdivision or to any aircraft of a foreign country operated under permission of the federal government.

(Ord. 2010-380, eff. 2010-Apr-21)

Sec. 26-2-217. Compliance with Federal Aviation Administration Regulations.

No person shall operate any aircraft over, land upon or take off from, or service, repair or maintain any aircraft on Aztec Municipal Airport premises or conduct any operation on or from the airport otherwise than in conformity with the rules and regulations of the Federal Aviation Administration.

(Ord. 2010-380, eff. 2010-Apr-21)

Sec. 26-2-218. Use, Privilege and Assumption of Risk.

The privilege of using the Airport and its facilities shall be conditioned on the assumption of full responsibility and risk by the user thereof, and each user shall release, hold harmless and indemnify the city, its officers and employees from any liability or loss resulting from such use and from the claims of third persons as a result of such use. The exercise of the privilege of use shall constitute an acknowledgment that the City maintains the Airport in a governmental capacity.

(Ord. 2010-380, eff. 2010-Apr-21)

Secs. 26-2-219 to 26-2-220. Reserved.**Sec. 26-2-221. Definitions.****Hazard to Air Navigation**

An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height

For the purpose of determining the height limits in all zones set forth in these Regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Obstruction

Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 26-254 of these Regulations.

Person

An individual, firm, partnership, corporation, company, association, joint stock association or governmental entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.

Structure

An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smoke stacks, earth formation and overhead transmission lines.

(Ord. 2010-380, eff. 2010-Apr-21)

Secs. 26-2-222 to 26-2-249. Reserved.

DIVISION 22. NORTH MAIN OVERLAY (NMO)

Sec. 26-2-250. Purpose.

The North Main Overlay (NMO) is intended to provide standards that encourage development of an active, pedestrian-oriented retail and mixed-use district linking Downtown Aztec via the pedestrian plaza and the trailhead to the Animas River Trail and Aztec Ruins National Monument. The district is intended to:

1. Create a dynamic, mixed-use environment, where walking is the preferred mode of transportation.
2. Encourage visitors and residents to shop, live and recreate in a neighborhood that reflects the history and culture of the area.
3. Produce quality public spaces that are usable for a variety of public and semi-public activities.
4. Ensure higher standards of design and construction for buildings, public infrastructure, and landscaping, emphasizing the relationships of buildings and the spaces between buildings.
5. Provide a neighborhood with cohesive design characteristics that reflect the local, historic themes of Spanish Colonial, Ancestral Puebloan, and Territorial Revival architectural style blended with modern architectural elements.
6. Guarantee a high degree of connectivity for pedestrian and vehicular traffic, and support transit service.
7. Provide narrow, slow-speed streets to ensure the safety of pedestrians and bicyclists.
8. Encourages public health with enhanced safety considerations and improved walkability.
9. Improves local air quality through the addition of street trees and vegetative bioswales.
10. Locate buildings close to the street, so that streets and squares are defined as “outdoor rooms”.
11. Utilize all the streets for on-street parking.
12. Encourage public spaces, public art, outdoor living and natural spaces wherever possible.
(Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-251. Jurisdiction.

NMO Zone standards apply to properties located within the boundaries of the NMO as shown on the Official Zoning Map.
(Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-252. Allowed Uses.

The following uses are permitted after approval of a site plan.

1. Offices
2. Hotel or Motel
3. Retail and Service Establishments less than 5,000 sq. ft.
4. Temporary Stands
5. Studios
6. Semi-professional or professional office
7. Theatres and commercial auditorium
8. Amusement Centers
9. Mixed Use development
10. Brew Pubs & Wine Tasting Establishments
11. Wineries
12. Restaurants
13. Coffee Shops
14. Farmers Markets
15. Community garden

(Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-253. Conditional Uses.

The following uses will be permitted in the NMO provided that the use has been reviewed the the Community Development Department and approved by the City Commission:

1. Nursery School
2. Public Utility structure
3. Recreational facility
4. Hospital or clinic
5. Boarding or lodging house
6. Multiple Family Dwellings
7. Senior living/assisted care
8. Institutions
9. Personal Services
10. Food Trucks
11. Retail Dispensaries (Medical and Recreational)
12. Any use not listed, needs City Commission Approval.

(Ord. 2021-517,eff. 2021-Oct-20; Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-254. Prohibited Uses.

1. Pawn Shops
2. Payday Loan Services
3. Second Hand or Consignment Stores
4. Vehicle Sales/ Leasing
5. Cars Washes
6. Paint and Body Shop
7. Service Stations
8. Vehicle Repair Shop
9. Single-Family Residential Dwelling Units

(Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-255. General Design Principles.

Uses and Streets shall be designed according to the following principles:

1. The NMO shall provide a distinct physical settlement, but shall not be walled off from the rest of the City.
2. Buildings shall front on and align with streets.
3. Civic buildings, such as places of public assembly, shall be sited and designed as landmarks.
4. Parking shall be located on street and behind structures, parking lots in front of uses shall not be permitted.
5. When a building is setback less than 5' in the front, a minimum 8' x 6' covered entry is required per lot.
6. Drive-through uses shall not be permitted.
7. All uses and structures shall incorporate Spanish Colonial or Territorial Revival architectural style or otherwise incorporate Ancestral Puebloan construction themes into the design of new structures in a culturally sensitive manner. Elements to incorporate could include:
 - 'Kiva' style or round structure elements
 - Clustered, block-like structures
 - Terraces
 - Horizontal brick elements (green stripe)
 - Doors set into corners
8. Principal Building percentage within the front street setback zone shall be a minimum of 90% (courtyards accessed from the sidewalk may count towards this requirement).
9. Signs shall be designed for the low-speed pedestrian environment. Signs shall incorporate the Spanish Colonial, Territorial Revival or otherwise incorporate Ancestral Puebloan architectural style.
(Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-256. Street Network Design Principles.

Streets and blocks shall be organized in a generally rectilinear or radial pattern. However, a strict grid is not required, and street layout shall take into account the following, in descending order of priority:

1. The design and location of streets shall minimize the alteration of natural resources and significant natural features of the site.
2. Streets, alleys, sidewalks, and trails shall provide multiple travel routes within and through the neighborhood where possible.
3. Street orientations shall, where possible, provide views of the Animas River, the Ruins Trail and other neighborhood features.

4. Squares, greens, parks, plazas, and landscape areas shall be included providing focal points and areas for activity, recreation, and views.
5. Street rights-of-way shall provide for parallel parking.
6. Alleys shall provide service access in the neighborhood center. Alleys are optional in areas that do not front on North Main.
7. Additional access points to Highway 550 are strongly encouraged.
8. New streets shall provide a similar level of landscaping, sidewalks and pedestrian amenities as North Main.
(Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-257. Block Length.

1. Street shall not be longer than 500 feet unless buildings provide pedestrian access from the front sidewalk to rear parking areas at intervals of not more than 300 feet.
2. Street segments shall not be longer than 650 feet, and shall generally be shorter than 500 feet. This requirement does not apply where:
 - 1) The street segment traverses common open spaces that are wider than 650 feet; or
 - 2) The view along the segment is interrupted by a significant curve, jog, or offset in the street, provided that the curve, jog, or offset is situated not more than 650 feet from the intersections that define the street segment.
 - 3) The City Commission determines that the street segment is appropriate based on existing and planned conditions.
(Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-258. Cul-de-sacs.

1. Cul-de-sacs may be used where necessary due to site constraints that cannot be addressed using loop streets.
2. Cul-de-sacs shall not be longer than 350 feet, measured along the centerline of the street from the point of intersection to the middle of the cul-de-sac.
(Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-259. Access and Parking.

1. On-street parking shall be provided. On-street parking is optional in areas that do not front on North Main.
2. Off-street parking for residential development shall be accessed by an alley or parking court.
3. Off-street parking for nonresidential and mixed-use shall be located behind principal buildings, and shall be accessed:
 - 1) From streets; or
 - 2) From an alley.
(Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-260. Buffering.

1. When new development abuts existing residential development outside of the North Main Overlay Zone, the new development shall provide buffering in the form of walls, landscaping, berms, an increased setback or a combination of the above.
2. Walls shall be masonry and a minimum of four feet and a maximum of eight feet in height.
3. Landscaping shall be designed to achieve opacity of 80% in the summer months and 50% in the winter months.
(Ord. 2018-469, eff. 2018-Apr-04)

Sec. 26-2-261. Landscaping.

1. Landscape plans as are required shall be submitted by the applicant showing compliance with the provisions of this section. A licensed landscape architect or architect shall stamp landscape plans. The landscaping plan shall meet the minimum standards set forth in §26-3-146. Landscaping shall be designed to achieve opacity of 80% in the summer months and 50% in the winter months. Please reference the plant palette for landscaping uses.
2. All cut and fill slopes and retaining walls more than three feet high and with a grade of 3:1 or more shall have screening vegetation planted and maintained at the base of the slope and those with a grade of less than 3:1 shall have screening vegetation planted and maintained on the face of the entire cut or fill slope.
(Ord. 2018-469, eff. 2018-Apr-04)

ARTICLE III. SUPPLEMENTARY REGULATIONS

DIVISION 1. ACCESSORY STRUCTURES**Sec. 26-3-131. Requirements.**

Unless approved under a Site Development Plan or Planned Unit Development, the following is required and overrides any previous restrictions:

1. An accessory structure shall not be located in the front yard of a lot where the principal use of the lot is for dwelling or residence. The accessory building shall be located in the side or rear yards.
2. An accessory structure shall not occupy over twenty-five percent (25%) of the combined side and rear yard footage.
3. An accessory structure which does not contain living quarters may be located no closer than three (3) feet from the side or rear lot line.
4. An accessory structure must be at least ten (10) feet from a dwelling or accessory living quarters.
5. An accessory structure which does not contain living quarters may be closer than ten feet to another accessory structure that does not contain living quarters so long as there is a five (5) feet between the accessory structures.
6. An accessory structure may be connected to the principal building with a roof, provided that at least two (2) sides of the connecting structure are not enclosed with a material other than that necessary for roof supports. The roof of the accessory structure shall be located at least three (3) feet from the side lot lines.
7. No accessory structure may extend across the width of the yard unless a passage of at least five (5) feet is provided at some point along the width.
8. Accessory swimming pools may occupy any part of the yard, provided they are not closer than five (5) feet to a lot line or building and provided they are surrounded by a duly approved wall or fence at least six (6) feet high.

(Code 2007, 26-131)

Sec. 26-3-132. Shipping Cargo Containers.

1. Definition. Shipping cargo containers, defined as intermodal container is a large standardized shipping container, designed and built for intermodal freight transport. These containers are often used as storage units.
2. Districts Permissible. Cargo containers are allowed in industrial areas, such as the M1 & M2 District provided they are screened. Cargo containers on commercial lots, such as C-1 and C-2 Districts would be limited to temporary storage purposes only to support seasonal events, provided they are located in a non-conspicuous area, entirely screened from public view, and do not adversely affect parking.

The total number of containers permitted are subject to the overall size of the property in

applicable districts.

To place a cargo container on an industrial, commercial, or agricultural lot, the container must be entirely screened from view from and must maintain the setbacks for the primary structure to provide appropriate landscape buffer areas from surrounding properties. Cargo containers also would not be allowed to be significantly modified (such as adding doors, windows, and utilities) to ensure they are used for storage purposes only. Cargo containers would be allowed to be located on residential properties developed with non-residential uses that contain sports fields (such as schools) in addition to parks, and government facilities provided they be screened from view.

3. Districts Prohibited. Cargo containers are prohibited on residential lots, such as (R-1), (R-2), (MH), and (O-1). Cargo containers are allowed on agricultural lots (A-1) provided the lots are greater than one acre in size, and proper screening is provided.
4. Permit Process. The issuance of a Storage Permit is required to place a shipping cargo container. The applicant is required to submit the appropriate site plans, details regarding the container, and demonstrate the method of screening.
5. Conformance. Existing cargo containers prior to August 15, 2017 that were lawfully permitted on private property, would be allowed to continue as a nonconforming use (Ord. 2017-461, eff. 2017-Aug-30)

Secs. 26-3-133 to 26-3-140. Reserved.

DIVISION 2. COMMUNICATIONS TOWER AND ANTENNA

Sec. 26-3-141. In General.

1. All new towers or antennas in the City of Aztec shall be subject to these regulations. Preexisting towers and preexisting antennas shall not be required to meet the requirements.
2. Antennas and towers may be considered either principal or accessory uses to the principal use of the property.
3. Site Suitability. In addition to other applicable standards of this section, the city shall consider the following in determining site suitability: height proposed; proximity to other uses, proximity to historic sites and landmarks, vehicle traffic routes, proximity to medical facilities, proposed signs, topographical features, utilities, access, and suitability of alternative sites.
4. State and federal requirements. All towers, antennae, and wireless communication facilities must meet or exceed standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate them or their components. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and unless a different compliance schedule is mandated by controlling law.
5. Maintenance. Towers, antennae, and wireless communication facilities shall be maintained in compliance with standards contained in the current New Mexico Building Code and the applicable health and safety standards established by the FCC, the city, or other governmental bodies having jurisdiction, as amended periodically. Towers, antennae and wireless communications facilities, which are not in compliance, shall be removed at the owner's expense if not brought into compliance within 30 days after written demand by the city.
6. Engineered Design. Any information of an engineering nature that the applicant submits, whether civil, mechanical, structural or electrical, shall be certified by a New Mexico licensed professional engineer.
(Ord. 2018-481, eff. 2018-12-16; Code 2007, 26-141)

Sec. 26-3-142. Height Restrictions.

1. Freestanding.
 - (1) *Residential*. Freestanding tower with height not exceeding 35 feet is a permitted conditional use; height exceeding 35 feet requires a special use permit.
 - (2) *Office-Institutional*. Freestanding tower with height not exceeding 35 feet is a permitted conditional use; height exceeding 35 feet requires a special use permit.
 - (3) *Commercial*. Freestanding or guyed tower with height not exceeding 100 feet is a permitted conditional use; height exceeding 100 feet requires a special use permit.

- (4) *Manufacturing/Industrial*. Freestanding or guyed tower with height not exceeding 200 feet is permitted conditional use; height exceeding 200 feet requires a special use permit.
 - (5) *Agricultural-Rural*. Freestanding or guyed tower with height not exceeding 100 feet permitted conditional use, height exceeding 100 feet requires a special use permit.
 - (6) *PUD*. Tower with height specified in approved plan is permitted under conditions set forth in plan.
2. Attached to structure.
- (1) *All Districts*. Tower and/or antenna mounted on building, water tank or structure other than a freestanding or guyed communications tower must not extend more than 30 feet above the highest part of the structure.
(Code 2007, 26-142)

Sec. 26-3-143. Application Requirements.

The applicant for a conditional use land use permit for construction of a communications tower or placement of a commercial telecommunication antenna on an existing structure other than a tower previously permitted must file with the Planning Department an application accompanied by a fee of \$350.00 and the following documents, if applicable:

1. Specifications. One copy of typical specifications for proposed structures and antennae, including description of design characteristics and material.
2. Site Plan. A site plan drawn to scale showing property boundaries, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscaping plan, and existing land uses on adjacent property; (site plan not required if antenna is to be mounted on an approved existing structure).
3. Tower Location Map. A current map, or update for an existing map on file, showing locations of applicant's antennae, facilities, existing towers, and proposed towers which are reflected in public records, serving any property within the city.
4. Antenna Capacity / Wind Load. A report from a structural engineer registered in New Mexico showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards.
5. Antenna Owners. Identification of the owners of all antennae and equipment to be located on the site.
6. Owner Authorization. Written authorization from the site owner for the application.
7. FCC License. Evidence that a valid FCC License for the proposed activity has been issued.
8. Visual Impact Analysis. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.

9. Removal Agreement. A written agreement to remove the tower and/or antenna within 180 days after cessation of use.
10. Conditions Met. Evidence that applicable conditions are met.
11. Additional Information. Additional information required by the City Planner for determination that all applicable land use regulations are met.
(Code 2007, 26-143)

Sec. 26-3-144. Conditions.

Applicant must show that all applicable conditions are met.

1. Collocation. A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for additional users. Towers shall be designed to allow for future -rearrangement of antennas and to accept antennas mounted at varying heights.
2. Inability to Locate on Existing Property. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirements without unreasonable modifications on any existing structure or tower under the control of applicant.
3. Location / Visual Impact. The proposed communications tower, antenna or accessory structure will be placed in a reasonably available location which will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements. To further mitigate visual impact the following shall be implemented:
 - 1) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
 - 2) Towers and antennas shall be of monopole design unless the city commission determines that an alternative design would be more appropriate to or better blend in with the surrounding environment.
4. Necessity for Location in Residential District. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a non-residential district for valid technical reasons.
5. Public Property or Other Private Property Not Suitable. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.
6. Design for Multiple Use. Applicant must show that a new tower is designed to accommodate additional antennae equal in number to applicant's present and future requirements.

7. Safety Codes Met. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.
8. Paint; Illumination. A communications tower must not be painted or illuminated unless otherwise provided by state or federal regulations.
9. Distance from Existing Tower. A permit for a proposed tower site within 1,000 feet of an existing tower shall not be issued unless the applicant certifies that the existing tower does not meet applicant's structural specifications and applicant's technical design requirements, or that a collocation agreement could not be obtained.
10. Indemnity; Claim Resolution. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Planning Department a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the municipality, in form approved by the municipal attorney.
11. Application of Land Use Requirements. Land development regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage, and all other general land use district regulations except setback and height, shall apply to the use. Setback and height conditions in this section apply.
12. Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, standard setback requirements may be decreased if the goals of this section would be better served thereby:
 - 1) Towers must be set back from any lot line a distance equal to the height of the tower.
 - 2) Guy wires, accessory or related structures or control buildings shall be subject to the minimum setback requirements of the underlying zoning district
13. Tower Accessory Building and Structure Design. The design and color of accessory or related structures or control buildings shall be architecturally designed to blend in with the surrounding buildings and environment.
14. Fences and Walls. A fence or wall not less than six feet in height from finished grade shall be constructed around each communication tower and around each guy anchor and peripheral support.
(Ord. 2018-483, eff. 2018-12-16; Code 2007, 26-144)

Sec. 26-3-145. Landscaping and Screening.

1. Ground- and rooftop-mounted mechanical equipment shall be screened from view off-site in accordance with the screening standards.
2. Perimeter trees shall be used to help screen the tower from residences in accordance with the requirements of the subsection.
(Ord. 2018-483, eff. 2018-12-16)

Sec. 26-3-146. Signs.

No signs shall be allowed on a tower or antenna; provided, however, where high voltage is necessary for the operation of the communication tower and it is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large bold letters the following: "HIGH VOLTAGE DANGER."

(Ord. 2018-483, eff. 2018-12-16)

Sec. 26-3-147. Removal.

1. Towers and antennae shall be removed, at the owner's expense, within 180 days of the discontinuance of use unless the city extends this time in writing.
2. An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The director may extend the time for removal or reactivation of up to 60 additional days upon a showing of good cause. If the tower and antennae are not timely removed, the city may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the city may remove the structure at the cost of the owner.
3. Upon removal of the wireless telecommunication facility, the site shall be returned to its natural state and topography and vegetated consistent with the natural surroundings.

(Ord. 2018-483, eff. 2018-12-16)

Sec. 26-3-148. Definitions.Alternative tower structure

Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas.

Antenna

Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Backhaul network

The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, an/or long distance providers, or the public switched telephone network.

Collocation

The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.

Communications tower

As used in this Division shall mean any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

Preexisting towers/antennas

Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance.

Telecommunications

As defined in the federal Telecommunications Act of 1996, means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(Code 2007, 26-145)

Sec. 26-3-149 to 26-3-150. Reserved.

DIVISION 3. LANDSCAPING AND OPEN SPACE

Sec. 26-3-151. In General.

To promote and preserve visually attractive surroundings by enhancing the beautification of the city, reduce soil erosion and storm water runoff, improve the quality of the environment of the city and have development in an attractive and high quality manner. Landscaping requirements are included in ordinances for a number of reasons:

1. They preserve natural features of a site for ecological and environmental reasons.
2. They make land more attractive for residential and other users.
3. They can screen from view unattractive uses such as junk yards, parking lots, or gravel pits, and
4. They can act as buffers, visually separating different types of uses.
(Code 2007, 26-151)

Sec. 26-3-152. District Requirements.

1. All new construction, including the redevelopment of an existing use/lot within the following:
 - (1) O-1 Office and Institutional
 - (2) C-1 Limited Retail and Neighborhood Commercial
 - (3) C-2 General Commercial and Wholesale
 - (4) M-1 Light Manufacturing
 - (5) M-2 Heavy Manufacturing

Shall require an area of not less than 7% of the site, lot, or tract of land to be landscaped. Any modification to existing buildings or site area, with a value of thirty thousand dollars (\$30,000) or more, shall allow for seven percent (7%) of the modification area to be landscaped. The area to be landscaped shall exclude the building foundation, fenced storage areas and sidewalks. Buildings that absorb ninety percent (90%) of the site and do not require on-site parking are excluded. Up to one-third (1/3) of the required area may be located in public right-of-way.
(Code 2007, 26-152)

Sec. 26-3-153. Landscape Plan Requirements.

1. The plan shall be drawn to scale.
2. The City encourages developers to seek out and plant perennials, annuals, shrubs, trees, and vines that perform well in our regions soil, that require minimal irrigation, that can cope with fluctuations in temperature, and that are disease resistant.
3. The following is required when landscaping and planting the following foliage:
 - (1) *Trees*. Shall be 6 feet in height and have a one (1) inch diameter trunk at the time of planting. A minimum of one (1) live tree shall be provided for every five hundred (500) square feet of required landscape area.
 - (2) *Shrubs*. Shall be one-gallon size, which are approximately one (1) foot in width at time of planting. A minimum of five (5) shrubs shall be provided for every five hundred (500) square feet of required landscaping area.

- (3) *Ground Cover.* Shall mean low shrubs, annual or perennial flowers, grasses, decorative bark and/or decorative stone, but does not include asphalt, concrete or soil, which is exposed and untreated. All portions of the required landscape area that are not covered by trees or shrubs shall be landscaped with ground cover.
- (4) *Buffer/Screen Landscaping.* A strip of land established by landscaping, berm, fences, walls, or combination thereof that blocks, in a continuous manner, the view from one area to another, to protect one type of land usage from another with which may be incompatible (i.e. commercial and residential).
(Code 2007, 26-153)

Sec. 26-3-154. Landscaping Within Public Right-of-Ways.

Landowners are encouraged to landscape areas within the non-paved right-off-way abutting their land, provided:

1. The city may at any time require such landscaping to be removed, and the city shall not be responsible or liable if any landscaping is required to be removed.
2. Such landscaping shall not impede or obstruct visibility from any vehicle and must receive prior approval from city.
3. No landscaping materials shall be placed in any area where a capital improvement project has been funded until said project has been completed.
4. Landscaping in the right-of-way of any State or Federal Highway is encouraged. An application for landscaping and installation standards may be obtained. Contact:

New Mexico State Highway and Transportation Department
P.O. Box 4127
Santa Fe, NM 87502-4127

(Code 2007, 26-154)

Sec. 26-3-155. Installation and Maintenance Standards.

1. All landscaping materials required under this ordinance shall be of nursery stock quality and shall be installed in a sound manner.
2. The required landscaping shall be installed as part of the completion of any development and or construction project unless a written agreement has been made with the city. Such agreements allowing the extension if the time of installation will be a maximum of six (6) months.
3. All landscaping shall be present at all times, having a healthy, neat, orderly, disease-free and pest-free appearance.
4. All landscaped area shall be free from weeds, refuse and debris at all times.
5. Any dead plant material (leaves, branches, etc.) or material which fails to show healthy growth must be removed and or replaced with the required materials within forty-five (45) days or when weather permits.

6. Maintenance and upkeep of all plant growth in the landscaped area including the area located in the public right-of-way is the responsibility of the owner, lessee, or tenant and shall be controlled by pruning or trimming so that it will not interfere with pedestrian or vehicular traffic nor shall it constitute a traffic hazard.
7. All trees and large shrubs shall be adequately supported. When trees are planted along city streets, the following intervals shall be followed; large trees; (40+ feet in height), 30 to 40 feet apart, medium trees; (30 to 40 feet in height), 25 to 30 feet apart, small trees (up to 30 feet in height) 20 to 25 feet apart.
8. No trees shall be placed beneath overhead lines.
9. Of the total area that is required to be landscaped, one-half (1/2) shall be located within the front portion of the property or adjacent to the city street. Where buildings occupy corner lots, tracts fronting two (2) streets, a minimum of one-quarter (1/4) of the required landscaping shall be located each front.
10. Buffer/Screen landscaping shall be constructed between two (2) tracts of land, which may not be compatible. (Such as commercial and residential.)
(Code 2007, 26-155)

Sec. 26-3-156. Compliance.

Failure to maintain the landscaping shall be considered a nuisance and subject to the provisions of Chapter 1-8.
(Code 2007, 26-156)

Sec. 26-3-157. Definitions.

Landscaping

Changing, rearranging, or adding to the vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.

Landscape Guideline/Design

The planting and maintenance of live plants and inorganic and manufactured materials including trees, scrubs, ground cover, flowers, or other low growing plants that are native or adaptable to the climate condition. In addition, the landscape design may include limited inorganic and manufactured materials such as bricks, fountains, benches and other types of outdoor furniture and appurtenances.

Landscape Plan

A component of a development plan on which the following is shown:

- Proposed landscape species (such as number, spacing, size at time of planting, and planting details),
- proposals for protection of existing vegetation during and after construction,
- proposed treatment of hard or soft surfaces,
- proposed decorative features,
- grade changes,

- buffers and screening devices,
- any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

Xeriscaping

The process of creating water-efficient landscapes by using plants that are appropriate to the natural environment. The term xeriscape is derived from the Greek word, xeros, which means dry. The best xeriscapes use a fraction of the water needed by traditional lawn-dominated landscapes. Your local nurseries and landscaping companies are a good source for xeriscape planning.

(Code 2007, 26-157)

Secs. 26-3-158 to 26-3-160. Reserved.

DIVISION 4. METAL BUILDINGS

Sec. 26-3-161. In General.

The purpose of this Section is to provide standards and additional design criteria for metal or steel buildings to ensure that such facilities are consistent in design with, and complimentary to, adjacent land uses and physical characteristics of Aztec. This Ordinance shall apply to all new metal and/or steel buildings proposed to be located in the following Zone Districts:

- Commercial 1 and 2
- Manufacturing 1
- Office and Institutional
- Planned Unit Development.

(Code 2007, 26-161)

Sec. 26-3-162. Plan Review Process.

The review process of architectural design will occur at the time of the commercial development planned review process. The process will include:

1. A thorough field inspection of the proposed building site;
2. A planned review meeting with the various city department heads to evaluate utility infrastructure, ingress/egress, landscaping, and architectural compatibility with surrounding land use districts.

(Code 2007, 26-162)

Sec. 26-3-163. Architectural Design Standards.

The architectural design of the structure shall meet the following requirements:

1. Retrofitting. Building façades shall be retrofitted in accordance to the following “Exterior Faces” requirements.
2. Exterior Faces. All exterior faces visible from a public right of way shall have a minimum of two different materials. The primary front building façade materials shall consist of either stone, brick, brick veneer, glass, cultured stone, ornamental metal, architectural precast (panels or detailing), stucco, wood siding, decorative concrete block, Premium grade vinyl siding may be used if it is installed horizontally. Metal siding, smooth-faced concrete block, tilt-up concrete panels, or pre-fabricated steel panels shall not be used for the front building exterior face.
3. Customer Entrances. All customer entrances shall be clearly defined and highly visible. The design of each entrance shall feature a combination of three (3) or more of the following features:
 - Canopies or porticos
 - Overhangs;
 - Recesses or projections;
 - Arcades;
 - Raised, corniced parapets

- Peaked roof forms
 - Arches
 - Outdoor patios
 - Display windows
 - Architectural details such as tile work and moldings which are integrated into the building structure or design; or
 - Fixed in place planters or wing walls that incorporate landscaped areas and places for sitting
4. Side and Rear Elevations. Commercial buildings' side and rear elevations should be comprised of the same materials and reasonably similar in character and quality as the front elevation unless screened from view from all public streets and residential areas by topography differences, landscaping materials, or other screening devices.
5. Roofs. Pitched roofs with a minimum slope 4/12 are preferred and the color and design shall coordinate with the rest of the building. Gabled roof designs are recommended. Roof top equipment such as heating and cooling units, duct work, etc. shall be screened and hidden from view from public right-of-ways.
(Code 2007, 26-163)

Sec. 26-3-164. Definitions.

Building frontage

Refers to the side, or facade, of a building closest to and most nearly parallel to an abutting street.

Building rear

The wall or plane opposite the primary building frontage. For a building on a corner lot, the building rear is the wall or plane opposite the wall or plane containing the principal building entrance.

Façade

An architectural treatment, partially covering a wall, usually concealing the eave and/or the rake of the building.

Fading

Means and refers to the paint finish on panels becoming less vibrant of color.

Fascia

A decorative trim or panel projecting from the face of a wall.

Flashing

The metal used to "trim" or cover the juncture of two planes of material.

Gable

The triangular portion of the end wall from the level of the eave to the ridge of the roof.

Gable Roof

A roof consisting of two sloping roof planes that form a ridge and form a gable at each end.

Masonry

Anything constructed of materials such as bricks, concrete blocks, ceramic blocks, and concrete.

Retrofit

The placing of new metal roof or wall systems over deteriorated roofs or walls.

Sidewall

An exterior wall, which is perpendicular to the frames of a building system.

Specification (metal building system)

A statement of a set of Metal Building System requirements describing the loading conditions, design practices, materials and finishes.

Trim

The light gauge metal used in the finish of a building, especially around openings and at intersections of surfaces, sometimes referred to as flashing.

Wainscot

The wall material, used in the lower portion of a wall that is different from the material in the rest of the wall.

Wall covering

The exterior wall surface consisting of panels.

Secs. 26-3-165 to 26-3-170. Reserved.

DIVISION 5. PARKING AND LOADING AREAS

Sec. 26-3-171. Parking Requirements.

The following parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building erected or enlarged:

1. Dwellings. At least two (2) parking space for each dwelling unit within the building or buildings or at least one space per bathroom, whichever is greater.
2. Places of Public Assembly. At least one (1) off-street parking space for each four (4) seats or ninety linear inches of bench or pew and/or at least one (1) off-street parking space for each seventy-five (75) square feet of floor area used for public assembly but not including fixed seats. Such space may be provided not further than 300 feet distant in a direct line from the nearest part of the parking area.
3. Restaurants or Other Eating Establishments. At least one (1) off-street parking space for each fifty (50) square feet of floor area exclusive of that used for kitchen, restrooms, or storage.
4. Hotel. At least one (1) off-street parking for each three- (3) guest sleeping rooms.
5. Motel. At least one (1) parking space for each unit of lodging.
6. Hospital, Sanitarium, or Nursing Home. At least one (1) parking space for each five (5) patients, plus one (1) additional space for each staff doctor, plus one (1) additional space for each three (3) regular employees, including nurses.
7. Retail Stores. At least one (1) parking space for each three hundred (300) square feet of floor area.
8. Office Buildings or Banks. At least one (1) parking space for each three hundred (300) square feet of office floor area on the ground floor and one (1) space for each five hundred (500) square feet of floor space above the first floor and the same shall apply to basement floor areas.
9. Industrial or Manufacturing Establishments. At least one (1) space for each employee on the peak-operating shift.
10. Bowling Alleys. Four (4) parking spaces for each alley.
(Code 2007, 26-171)

Sec. 26-3-172. Required Improvements for Parking.

A parking lot must comply with the following:

1. The lot must be graded and surfaced with:
 - (1) *Blacktop or equal*. Two (2) inches hot mix of asphalt concrete on a prime coat over a four-inch compacted subgrade, or a surface of equal or superior performance characteristics.

2. If street curbs and gutters exist adjacent to the parking lot property on a side where lot egress is allowed, the surfacing shall be the second (blacktop) alternative listed above for the width of the egress (drivels) and shall extend inward from the property line a minimum of twenty-five (25) feet along all normal lines of egress traffic flow from the lot.
3. The lot shall have barriers, which prevent vehicles from extending over the sidewalk or abutting lots.
4. A solid wall or fence at least six feet high shall be erected on sides where they are within twenty-one (21) feet of a residential zone, public right-of-way excluded.
5. Ingress or egress shall be designed to discourage parking lot traffic from using local residential streets for more than one hundred fifty (150) feet, unless no reasonable alternative is available.
6. Any lighting shall be arranged so as not to directly illuminate any residential zone, public right-of-way excluded.
7. An engineered drainage study will be necessary to ensure that drainage or flood problems are not created for adjacent areas.
8. A parking stall shall be 9-feet in width and 20-feet in length.
(Ord. 2019-498, eff. 2020-Feb-13; Code 2007, 26-172)

Secs. 26-3-173 to 26-3-175. Reserved.

Sec. 26-3-176. Unloading and Shipping Facilities Requirements.

The following unloading and shipping areas shall be provided by the owner of the property for each new structure erected or existing structure enlarged.

1. For all retail, wholesale, furniture, restaurants, and appliance establishments:

Building Footage (square feet)	Delivery Space Required (square feet)
Less than 2,250	350
Greater than 2,250	350 + 45 (for every 5,000 sq ft)
2. For apartment buildings, hotels, motels, and office buildings:

Building Footage (square feet)	Delivery Space Required (square feet)
Less than 50,000	350
50,000 to 200,000	650
Greater than 200,000	650 + 350 (for every 200,000)
3. For theaters and bowling alleys:

Building Footage (square feet)	Delivery Space Required (square feet)
Less than 25,000	350
Greater than 25,000	350 + 350 (for every 25,000 sq ft)

(Code 2007, 26-176)

Secs. 26-3-177 to 26-3-180. Reserved.

DIVISION 6. PROTECTION OF FLOOD WATERWAYS**Sec. 26-3-181. Restricted.**

1. Any building, structure or dwelling which could pose a hazard within the flood boundaries, as indicated in the Federal Emergency Management Agency Flood Insurance Rate Map (FEMA – FIRM), may be prohibited from being placed within the flood boundary.
2. Any building, structure, or dwelling being considered to be placed or built within the flood boundary as defined by FEMA-FIRM, must meet the regulations set forth in Chapter 9, Flood Damage Prevention.
(Code 2007, 26-181)

Secs. 26-3-182 to 26-3-199. Reserved.

DIVISION 7. CANNABIS REGULATIONS

Sec. 26-3-200. In General.

Cannabis Regulation Act (“CRA”), House Bill 2 of the 2021 regular legislative session, duly adopted and promulgated as Chapter 4, Laws of New Mexico 2021, provides for the regulation of cannabis and cannabis products throughout the State of New Mexico. The Cannabis Regulation Act provides that local jurisdictions may adopt time, place, and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses.

(Ord. 2021-517, eff. 2021-Oct-20)

Sec. 26-3-201. Scope and Purpose.

The purpose of this Ordinance is to protect and enhance the community's health, safety, and welfare. This Ordinance is enacted to provide for the licensure and reasonable regulation of facilities engaged in the cultivation, production, manufacture, and distribution of cannabis and cannabis products, consistent with the Cannabis Regulation Act, Chapter 2, Law of New Mexico 2021, the Lynn and Erin Compassionate Use Act (Chapter 26, Article 2B, NMSA 1978), and the Dee Johnson Clean Indoor Air Act, Sections 24-16-1 et seq., NMSA 1978. Nothing in this Ordinance is intended nor shall be deemed to promote or condone the cultivation, production, manufacture, transportation, distribution, sale, possession, or use of cannabis or cannabis products in violation of any law, whether federal, state, or local.

(Ord. 2021-517, eff. 2021-Oct-20)

Sec. 26-3-202. Requirements.

1. All cannabis establishments require a conditional use permit in the N. Main Ave Overlay District.
2. The property upon which the cannabis establishment is located shall be a minimum of three hundred (300) feet from day care or school.
3. Every cannabis establishment shall be constructed and operated in such manner as to prevent the escape of smoke into any indoor public space, any public property of the Aztec, and any open space, and to prevent the visible smoking, ingestion or consumption of cannabis from any such public space, public property of the Aztec, or open space.
5. Each cannabis establishment is subject to the sign ordinance, per the City of Aztec
6. Retail sale, distribution, and consumption of cannabis, cannabis products and marijuana in cannabis establishments shall be limited to those hours during which the sale of alcoholic beverages at licensed liquor establishments for on-premises consumption is permitted under the statutes and regulations of the State of New Mexico.

(Ord. 2021-517, eff. 2021-Oct-20)

Sec. 26-3-203. Prohibition.

1. Commercial cannabis establishments are prohibited in all residential zoning districts within Aztec, including the A-1 District and Planned Unit Development (PUD) for residential.
2. Cultivation of cannabis and manufacturing of cannabis/cannabidiol products for retail sales are not permitted as a Home Occupation.
3. The sale of cannabis products from Mobile Food Units is prohibited.
4. Cultivation of cannabis and manufacturing of cannabis/cannabidiol products for retail sales are not permitted as a Home Occupation.
5. Sale of cannabis products from Mobile Food Units are prohibited.
6. No cannabis consumption while operating a motor vehicle.
7. No cannabis consumption on public property, which includes, but not limited to parks, trails, recreation facilities, and public open space areas.
8. Hours of operation of commercial retail establishments to 7 AM – 12 AM (midnight).

(Ord. 2021-517, eff. 2021-Oct-20)

Sec. 26-3-204. Permitted Zoning Districts.

	<u>Districts</u>
1. Retail Dispensaries (Medical & Recreational)	C-1 & C-2
2. Testing & Research Laboratories (no use of explosive solvents)	C-1 & C-2
3. Cannabis Couriers	C-1, C-2, M-1, M-2
4. Cultivation Microbusiness (up to 200 mature plants at a time)	C-2, M-1, M-2
5. Cultivation Producer (up to 8,000 mature plants at a time)	M-1, M-2, C-2 (with an approved Conditional Use Permit (CUP))
6. Manufacturing & Testing (where the use does not entails explosive solvents)	C-2, M-1 & M-2
7. Manufacturing & Testing (where the use entails explosive solvents)	M-1 & M-2
8. All commercial establishments of cannabis are prohibited within residential zoning districts, these zoning districts.	A-1, R-1, R-2, MH, PUD
9. All cultivation, manufacturing or production of commercial cannabis establishments shall be regulated to:	C-2, M-1, M2

(Ord. 2021-517, eff. 2021-Oct-20)

Sec. 26-3-205. Requirements for Cultivation & Manufacturing.

If the cultivation, manufacturing or production facility is within setback area the following is required:

1. All cultivation and manufacturing subject to indoor uses, accompanied by the industry best practices for air filtration to mitigate odor.
2. Subject property is surrounded by a 6-foot perimeter wall or security fence with barbwire.
(Ord. 2021-517, eff. 2021-Oct-20)

Sec. 26-3-206. Setbacks.

A setback of 300-feet from a school or daycare center is required. The measurement is from property line to cannabis facility.

(Ord. 2021-517, eff. 2021-Oct-20)

Sec. 26-3-207. Restrictions.

1. All cannabis establishments require a conditional use permit in the N. Main Ave Overlay District.
2. The property upon which the cannabis establishment is located shall be a minimum of three hundred (300) feet from day care or school
3. Every cannabis establishment shall be constructed and operated in such manner as to prevent the escape of smoke into any indoor public space, any public property, and any open space, and to prevent the visible smoking, ingestion or consumption of cannabis from any such public space, public property of the Aztec, or open space.
4. Each cannabis establishment is subject to the sign ordinance, per the City of Aztec.
5. Retail sale, distribution, and consumption of cannabis, cannabis products and marijuana in cannabis establishments shall be limited to those hours during which the sale of alcoholic beverages at licensed liquor establishments for on-premises consumption is permitted under the statutes and regulations of the State of New Mexico.
(Ord. 2021-517, eff. 2021-Oct-20)

Sec. 26-3-208. Other Prohibitions.

1. Commercial cannabis establishments are prohibited in all residential zoning districts within Aztec, including the A-1 District and residential planned unit developments.
2. Cultivation of cannabis and manufacturing of cannabis/cannabidiol products for retail sales are not permitted as a Home Occupation.
3. The sale of cannabis products from Mobile Food Units is prohibited.
(Ord. 2021-517, eff. 2021-Oct-20)

Sec. 26-3-209. Plan Review.

Similar to all other businesses in Aztec, a cannabis establishment needs to submit plans, permits, applications, and fees. In addition, a complete set of detailed plans (architecture or

engineering plans) is required for any additions or alterations of facilities.

All cultivation, production and manufacturing of cannabis is proposed to be inside a facility with industry-standard air filtration to mitigate odor. No commercial cultivation of cannabis is allowed outdoors. All cannabis cultivation, production, and manufacturing are to mitigate cannabis odors.

All cultivation, production and manufacturing facilities of cannabis need to be secured by 6-foot in height security fence. All cannabis cultivation, production, and manufacturing are not to be visible to the public.

(Ord. 2021-517, eff. 2021-Oct-20)

Sec. 26-03-210 Definitions.

Cannabis

All parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin.

Cannabis Consumption Area

An area where cannabis products may be served and consumed.

Cannabis Control Division (CCD)

A division of the Regulation and Licensing Department created to implement the Cannabis Regulation Act

Cannabis Establishment

Is the meaning set forth in Section 2.E of the Cannabis Regulation Act.

Cannabis Manufacturing

The use that involves compounding, blending, extracting, infusing, packaging, or otherwise preparing a cannabis product using volatile solvents, e.g. butane, heptane, hexane, or propane. A person that:

1. Manufactures cannabis products; or
2. Packages cannabis products; or
3. Has cannabis products tested by a cannabis testing laboratory; or
4. Purchases, acquires, sells or transport wholesale cannabis products to other cannabis establishments.

Cannabis Product

A product that is or that contains cannabis or cannabis extracts, including edible or topical products.

Cannabis Producer Microbusiness (up to 200 mature plants)

A business conducted by a person licensed to cultivate cannabis, provided that the person may not possess more than two hundred (200) total mature cannabis plants at any one time.

Cannabis Producer (up to 8,000 mature plants)

A business conducted by a person licensed to cultivate cannabis, provided that the person may not possess more than eight thousand hundred (8,000) total mature cannabis plants at any one time. A person that:

1. Cultivates cannabis plants; or
2. Has unprocessed cannabis products tested by a cannabis testing laboratory; or
3. Transports unprocessed cannabis products only to other cannabis establishments; or Sells cannabis products wholesale

Cannabis Retailer

A person whose license from the cannabis control division of the regulation and licensing department allows the person to sell cannabis products to a person who purchases, acquires, possesses or uses the cannabis product for a purpose other than resale.

Cannabis Regulation Act

2021 Special Session, the New Mexico Legislature adopted the Cannabis Regulation Act (CRA), which legalized recreational cannabis use by adults twenty-one (21) years old and over.

Cannabis Research Laboratory

A facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

Cannabis Training and Education Program

A practical or academic curriculum offered by a New Mexico public post-secondary educational institution designed to prepare students for participation in the cannabis industry.

Cannabis Testing Laboratory

A person that samples collects and tests cannabis products and transports cannabis products for testing. An establishment used to test cannabis products. This establishment may or may not involve volatile solvents.

Child Care Facility

Any premises licensed under New Mexico Children, Youth and Families Department (CYFD), where children receive care, services, and supervision. A facility can be a center, home, program or other site where children receive childcare, per the definition given by Title 8, Chapter 16, Part 2 NMAC.

Commercial Cannabis Retailer or Dispensary

A business conducted by a person that is licensed to sell cannabis products directly to consumers who are twenty-one years or older.

Consumer of Cannabis

A person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale.

Consume, Consuming, or Consumption

The act of ingesting, inhaling, or otherwise introducing cannabis, cannabis product or marijuana into the human body.

Cultivation

Any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

Fence or Wall

A metal security fence or wall with the purpose of protection of assets, personnel or buildings.

Manufacture

To compound, blend, extract, infuse, package or otherwise prepare a cannabis product.

Indoor Public Place

The same meaning as prescribed in the Dee Johnson Clean Indoor Air Act, Section 24-16-3 NMSA 1978.

Open Space

Any public park, public sidewalk, public walkway, or public pedestrian thoroughfare.

Retail Establishment

A location at which cannabis products are sold to qualified patients, primary caregivers and reciprocal participants and directly to consumers.

School

Real property comprising of a public or private elementary, vocational, or secondary school or a public or private college, junior college or university.

Smoke or Smoking

The act of inhaling from, exhaling from, carrying or holding any lighted or heated cannabis, cannabis product or marijuana, whether natural or synthetic.

Vertically Integrated Cannabis Establishment

A person that is authorized to act as any of the following:

1. A cannabis courier; or
2. A cannabis manufacturer; or
3. A cannabis producer

(Ord. 2021-517, eff. 2021-Oct-20)

ARTICLE IV. PROPERTY USE REQUIREMENTS AND EXCEPTIONS

DIVISION 1. IN GENERAL

Sec. 26-4-501. Uses Not Listed.

Any land use not specified under "Uses Permitted" within the text of this Chapter shall be considered a conditional use provided the applicant can demonstrate compatibility with other land uses in the surrounding property or community. The inclusion of a use in a District as "Permissive Uses" as set forth herein shall follow the procedures as outlined in the section entitled "Application for Change".

(Code 2007, 26-501)

Sec. 26-4-502. Lawful Non-Conformance.

The use of any dwelling, building, or structure which was existing and lawful at the time of the enactment of this ordinance may be continued, although such use does not conform to the provisions of this ordinance.

(Code 2007, 26-502)

Sec. 26-4-503. Discontinuance and Abandonment.

In the event of the non-conforming use of any dwelling, building or other structure and of any land or premise is discontinued for a period of one (1) year, any further use thereof shall be in conformance with the provisions of this ordinance. For the purpose of this ordinance, discontinued shall mean that the structure has remained vacant, unoccupied, unused or has ceased the daily activities or operations which had previously occurred.

(Code 2007, 26-503)

Sec. 26-4-504. Procedures.

1. Application. Proposed applications must be discussed with the City Planner for familiarization with current city regulations and for specific documentation that will be required to complete the application process. Each application must be accompanied with the proper documentation for review and be acquired prior to public notification. Failure to provide the proper documentation for public notification and board review can lead to delay in the application process and/or refusal of application. For purposes of this Chapter, applications require proper documentation, public notification, and approval from the Community Development Department and the City Commission:

- | | |
|------------------------|------------|
| (1) Change of District | Division 2 |
| (2) Special Use | Division 3 |
| (3) Conditional Use | Division 4 |
| (4) Variance | Division 5 |

2. Hearings. Proposed applications must follow proper public notification and should be heard by the City Commission in a public meeting, unless otherwise stated in this Chapter. The Hearing Process includes the following:

- (1) City Commission. Each application that comes before the Community Development Department and will be placed as an Agenda Item on the next available City

Commission meeting, unless otherwise dictated by the applicant, the Community Development Department, or other time constraints. The City Commission will consider the recommendation by the Community Development Department on each application, but is not held to that recommendation.

- (2) Public Notification. Public notice of the hearings or meetings at which the application is to be considered must be given by legal advertisement by at least one publication in a newspaper of general circulation in the Municipality at least fifteen (15) days before the subsequent City Commission meeting. Additional public notification may be required depending upon the type of application being submitted for review and approval. Where necessary, additional public notification requirements are specified in the appropriate sections.
- (3) Expiration of Approval. Expiration of Approval will lead to the application being voided and can occur from one of the following:
 - (a) An application is void if not submitted to the City Commission within six (6) months after the date of recommendation by the Community Development Department, or if not approved by the City Commission within three (3) months after receipt of a recommendation from the Community Development Department. No application shall be voided if delay is caused by the Municipality.
 - (b) An approval of change to the Official District Map by the City Commission is void if requirements prerequisite to the publication of the implementing ordinance are not met within two (2) months after the date of approval by the City Commission.
- (5) Appeal Process. Public notice of an appeal must be given by legal advertisement in the manner prescribed for a change to the text of this Chapter. The Municipality must give written notice of an appeal together with notice of the hearing date to the applicant, a representative of opponents, if any, and the appellant. The appeal must be presented to the City Commission within three months after the date of filing. Once the appeal is presented to the City Commission, a request for delay in hearing the appeal must be acted upon at a regular City Commission meeting.
(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-504)

Secs. 26-4-505 to 26-4-520 Reserved.

DIVISION 2. CHANGE OF DISTRICT**Sec. 26-4-521. Process.**

1. Application. Application for the amendment of the Official Land Development Map or text of this Chapter shall be to the Municipality (Community Development Department and City Commission). Required documents or information will include:
 - (1) A completed "Application For District Change" form;
 - (2) A recent survey;
 - (3) Legal description or proper street address of the subject property;
 - (4) Reason for the request to change the current district.
2. Publication and Notification. Public notification will be conducted by the Planning Department. Such notification will include all property owners within one hundred (100) feet of the exterior boundaries (excluding public right-of-way).
3. Fees. A non-refundable fee is established in [Chapter 16, Section 16-293](#).
4. Approval or Denial. A request for change in any district can be denied by the City Commission based upon, but not limited to, the following circumstances:
 - (1) Failure to provide the proper documentation;
 - (2) Failure to meet the required deadline for public notification;
 - (3) Failure to demonstrate notification through certified mail of adjoining property owners within one hundred (100) feet of the area of proposed change;
 - (4) Presentation of written protest signed by the majority of owners that are within the proposed change or within one hundred (100) feet of the area proposed for change.
 - (5) The City Commission determines that the change could be detrimental to the surrounding area, or may have significant impact on the general health, safety, and/or welfare of property owners in the general area.
 - (6) That the request for change in type of district was not approved by the majority vote of the City Commission.
 - (7) Failure to pay the proper fee.
5. Duration. Once approved, the application of change of district will become part of the Official District Map and Regulation.
(Ord. 2019-498, eff. 2020-Feb-13; Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-521)

Secs. 26-4-522 to 26-4-530. Reserved.

DIVISION 3. SPECIAL USE

Sec. 26-4-531. Purpose.

Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a District, certain special uses, when found to be in the special interest of the public health, safety, and general welfare of the city may be permitted by the City Commission through a Special Use Permit.

(Code 2007, 26-531)

Sec. 26-4-532. Process.

1. Application. Application for a "Special Use" must provide to the Community Development Department the following:
 - (1) A completed "Application for Use Permit" application form;
 - (2) A site plan of the proposed activity showing the following requirements:
 - (a) An outline, with boundary dimensions and total acreage, of the area proposed for conditional use;
 - (b) Existing streets, roads, drainage courses and utility features expected to service the area;
 - (c) Proposed streets, private drives, parking area, and utility feature;
 - (d) Proposed locations of structures;
 - (e) North arrow, scale, and other geographic data. The site plan should be drawn on 8-1/2 by 11-inch paper for reproduction purposes.
 - (3) A legal description or proper street address of the property;
 - (4) A statement as to the proposed use of the buildings, structures and premises;
 - (5) A showing of compliance with any minimum requirements by the City and State governments (fire, licenses, etc.).
2. Publication and Notification. Proper public notification and publication follows the procedures outlined in Section 26-504-2(3).
3. Fees. A non-refundable fee is established in [Chapter 16, Section 16-293](#).
4. Approval or Denial. The City Commission may grant a Special Use Permit provided that:
 - (1) The public health, safety, and general welfare will not be adversely affected;
 - (2) That adequate off-street parking facilities will be provided; and
 - (3) That necessary safeguards will be provided for the protection of the surrounding property, persons and neighborhood.

The City Commission may, in approving such special use permit, set forth such further reasonable requirements or conditions as are related to or necessitated by the proposed special use.

5. Duration. Whenever it is determined that a use of property for which a special use permit has been approved, but such use is not being conducted within the terms of the special use permit; or that such use has been allowed to accumulate litter or debris, to be a public nuisance, or to attract vagrants, criminals, or public intoxication, or is otherwise detrimental to the public safety or welfare or; before the special use has commenced, and it is determined that such special use is not in the public interest, or the owner of the property has affected petitions for revocation; the special use permit may be revoked by the City Commission.

6. Appeal. The owners shall have the right of appeal to the City Commission if the special use permit is revoked.
(Ord. 2019-498, eff. 2020-Feb-13; Code 2007, 26-532)

Secs. 26-4-533 to 26-4-540. Reserved.

DIVISION 4. CONDITIONAL USE

Sec. 26-4-541. Purpose.

The objective of this land development ordinance is to provide for an orderly arrangement of compatible building and land uses compatible with the physical pattern of development characterized by the neighborhoods and districts within Aztec, and for the proper location of all types of uses required for the social and economic welfare of the City of Aztec. Toward this goal each type and kind of use is classified as being permitted in one or more respective districts. However, in addition to those uses specifically classified as "permitted uses" in each district, there are certain additional uses, because of their unusual characteristics or the service they provide the public. These "conditional uses" listed with their respective district require particular consideration as to their proper location in relation to adjacent established or intended uses. The conditions controlling the location and operation of such "conditional uses" are established by the following provisions of this Section.

(Code 2007, 26-541)

Sec. 26-4-542. Process.

1. Application. Each application for a "Conditional Use" must provide to the Community Development Department the following:
 - (1) A completed "Application for Use Permit" form;
 - (2) A site plan of the proposed activity showing the following requirements:
 - (a) An outline, with boundary dimensions and total acreage, of the area proposed for conditional use;
 - (b) Existing streets, roads, drainage courses and utility features expected to service the area;
 - (c) Proposed streets, private drives, parking area, and utility feature;
 - (d) Proposed locations of structures;
 - (e) North arrow, scale, and other geographic data. The site plan should be drawn on 8-1/2 by 11-inch paper for reproduction purposes.
 - (3) Verification of ownership or legal interest in the subject property (copy of abstract, title certificate, insurance or contract);
 - (4) Legal description of the property or proper street address;
 - (5) Statement describing the proposed use of the buildings, the structures and the premises;
3. Publication and Notification. Proper public notification and publication follows the procedures outlined in Section 26-504-2(3).
4. Fees. A non-refundable fee is established in [Chapter 16, Section 16-293](#).
5. Approval or Denial. No "Conditional Use Permit" shall be approved or granted by the City Commission unless the conditional use:
 - (1) Is necessary for public convenience at the proposed location.

- (2) Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
- (3) Will not cause substantial injury to the value of other property in the neighborhood of which it is a part; and
- (4) That in no case will such use change or alter the Land Development district of which it is a part and further, in the event of such use cease to operate, the property occupied by the "conditional use" will revert back to its intended District.

Denial of the "Conditional Use Permit" can occur if:

- (5) A written protest to the proposed conditional use is signed by the majority of owners of property within one hundred (100) feet; or
 - (6) The Conditional Use application fails to receive a majority vote of the City Commission.
6. Duration. Every "Conditional Use Permit" is specific to the specified property and property owner. Should the property be sold to a new owner, the "Conditional Use Permit" automatically becomes void and terminates. Regardless of relationship, a "Conditional Use Permit" is not transferable from owner to owner.
(Ord. 2019-498, eff. 2020-Feb-13; Code 2007, 26-542)

Secs. 26-4-543 to 26-4-550. Reserved.

DIVISION 5. VARIANCE

Sec. 26-4-551. Purpose and Hardship.

The property owner seeking a variance on the grounds of “unnecessary hardship” must show:

1. Credible proof that the property will not yield a reasonable return if used in accordance with the ordinance; or
2. Must establish that the Land Development Ordinance gives rise to the hardship amounting to virtual confiscation; or
3. Disadvantage must be so great as to deprive the owner of all reasonable use of the property.

(Code 2007, 26-551)

Sec. 26-4-552. Process.

1. Application. Where owing to special conditions a literal enforcement of the provisions of this ordinance would involve practical difficulties or cause unnecessary hardships within the meaning of this ordinance, the City Commission shall have the power upon appeal in specific cases to authorize such variation or modifications of the provisions of this ordinance with such conditions and safeguards as it may determine, so that public safety and welfare is secured and substantial justice done. The application must consist of the following:

(1) A completed " Application For Variance" form;

(2) A detailed site plan including the following:

- (a) An outline, with boundary dimensions and total acreage, of the area proposed for the variance;
- (b) Existing streets, roads, drainage courses and utility features expected to service the area;
- (c) Proposed streets, private drives, parking area, and utility feature;
- (d) Proposed locations of structures;
- (e) North arrow, scale, and other geographic data. The site plan should be drawn on 8-1/2 by 11-inch paper for reproduction purposes.

(3) A legal description or proper street address of the subject property;

(4) A reason for the request of the variance and statement of hardship delineating how the variance relates to the specific parcel of land, is not a substantial detriment to the public good, and how any deviation would substantially outweigh any detriment caused by the variance.

2. Publication and Notification. All variance requests shall be published as provided for in Section 26-504-2(3) of this code and also the following:

(1) A signed petition of approval by a majority of surrounding neighbors within 100 feet is required.

3. Fees. A non-refundable fee is established in [Chapter 16, Section 16-293](#).

4. Approval or Denial. Approval of a variance shall be granted by the City Commission if the following conditions are met:
 - (1) That the variance will not allow a use other than a use permitted for the district;
 - (2) That under exceptional and extraordinary circumstances having to abide by literal enforcement of the provisions of this ordinance will result in unnecessary hardship;
 - (3) That the circumstances presented were not created by the owner of the property and are not due to or the result of general conditions in the district in which the property is located;
 - (4) That the development or use of the property for which the variance is sought, if limited by literal enforcement of the provisions of this ordinance, cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same district;
 - (5) That the variance will not substantially or permanently injure the appropriate use of adjacent property in the same district and conforming to the designated Land Development district;
 - (6) That the variance will not alter the essential character of the Land Development district in which the property is located within and for which the variance is sought;
 - (7) That the variance will not weaken the general purposes of this ordinance or the regulations established for the specific district;
 - (8) That the variance will not adversely affect the public health, safety or welfare;
 - (9) Administration and Fees
5. Duration. Every variance authorized shall not belong to the applicant or owners but shall run with the land and be transferable from owner to owner.
(Ord. 2019-498, eff. 2020-Feb-13; Code 2007, 26-552)

ARTICLE V. DEFINITIONS

Sec. 26-5-121. Definitions.

For the purpose of this Article, certain terms or words are hereby defined and shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, City, corporation as well as an individual or natural person. The present tense includes the future tense, the singular number includes the plural and the plural includes the singular. The words "must" and "shall" are mandatory and the word "may" is permissive. The words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied". The word "lot" includes the words "plot", "parcel", or "tract".

Accessory dwelling unit

Is a dwelling unit permit on the same parcel of and with a conforming or non-conforming use, provided that such a unit is not used as a commercial or industrial unit, that no other residential dwelling unit is located on the same parcel. (See also C-1 Zone)

Accessory use or structure

A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal or dominant use or structure.

Abutting

Adjacent to and touching.

Airport

Any tract or area which is now being used or is contemplated for use as a take-off or landing area for aircraft, and any support, contiguous or appurtenance areas used or intended for use of airport buildings, facilities, or right-of-ways. Approach zones for landing patterns are not included in the general description of an airport.

Adoption

The term adoption shall include the word "adoption", "amendment", "passage", and "effective date" of this zoning code or amendments thereto. All such terms whenever used shall be synonymous.

Alley

A public or private way which offers only a secondary access to abutting property.

Alteration

Alter or alteration shall mean any change of size, shape, character or use of a building or structure.

Animal unit

For purposes of this Ordinance, the following animal equivalents shall obtain for a premises or lot providing further that said animals shall not run at large and further provided that no animals shall be kept nearer to the nearest neighbor's home than to the home of the owner:

One Animal Unit	= One cow + one calf standing by her side
" "	= One horse + one colt standing by her side

" "	= Eight goats (including not more than one male goat per five acres)
" "	= Twelve sheep
" "	= Five turkeys
" "	= Seven geese
" "	= Ten ducks, chickens or similar fowl

Apartment

A room or suite of room's intended, designed or used as a residence by a single-family unit.

Apartment house

See "Multiple Family Dwelling".

Apartment hotel

A building designed for, or containing apartments, individual guest rooms, suites, or rooms and apartments, and which may also furnish services ordinarily furnished by hotels, such as, but not limited to, drugs and notions, barber and beauty shops, curios, tobacco and news stands and the like, when such uses are contained solely within the structure and the primary entrances thereto are from the lobby or from within the building.

Basement

A story in a building having less than one-half of its total height below grade.

Boarding or lodging house

A building containing not more than five (5) guest rooms providing lodging with or without meals for which compensation is received; said rooms to be in addition to a single dwelling unit.

Buildable area

The portion of a lot remaining after required yards have been provided.

Build

To construct, assemble, erect, convert, enlarge, reconstruct or structurally alter a building or structure.

Building

Any structure, temporary or permanent, having a roof impervious to weather and used or intended for the purpose of shelter or enclosure of persons, animals, chattels or property of any kind. This definition shall include canvas or plastic covered frameworks or vehicles situated on the property serving in any way the functions of a building, but does not include slatted or screened enclosures not having a roof impervious to weather.

Building, accessory

A building which is subordinate to the principle use of the main building on a lot and which is serving a purpose customarily incidental to the principle use, and which is located on the same lot or parcel of land as the main building.

Building lines

Same shall be determined from the extreme support of the roof of the main structure or appurtenance thereto.

Carport

A structure having a roof impervious to weather, either self-supporting or sharing one or two common walls with the principal structure, having at least two more-or-less open sides and used or intended for the shelter or partial enclosure of automobiles.

Cellar

A story having more than one-half of its total height below grade.

Centerline of street

The centerline of a street is the line surveyed and monumented by the City as such, or if not surveyed and monumented, it shall be a line running midway between the right-of-way lines of the street.

Church

A structure designed, used or intended for the purpose of conducting religious services including, but not limited to educational, social and other activities associated with the organization. This definition is strictly structurally defined and not faith based.

City

The City of Aztec, New Mexico.

Clinic

A clinic is an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by practicing healing services to individuals, whether such persons are medical doctors, chiropractors, osteopaths, naturopaths, chiropodists, optometrists, dentists, or any like profession, the practice of which for healing is lawful in the State of New Mexico.

Club, private

Private Club shall mean and include those associations and organizations of a fraternal or social character, not operated for profit, and shall exclude casinos, nightclubs, bottle clubs or other such institution operated as a business.

Code

"Code", "This Code" shall all mean the Aztec City Code.

Commission

The City Commission established by statute and ordinance.

Community residential programs

Means a facility licensed or supervised by appropriate state or local agencies and utilized as a temporary residence (one year duration) where services are offered to persons who by reason of mental or physical disability, addiction to drugs, alcohol, incarceration, or family/school problems require specialized attention and care to achieve personal independence. The maximum number of residents in a facility would be fifteen (15).

Community residential programs for substance abusers

Means a community residential program for persons who require such services by reason of the effects of alcohol or drug abuse.

Community residential corrections program

Means a community residential program for persons currently in the custody of, or recently released by, correctional authorities which is designed to offer an alternative to imprisonment and/or to facilitate ex-offender reintegration into community life. See Table below for summary.

- CRP-5 Community Residential Program with up to five residents, but not for corrections or substance abuse.
- CRP-15 Community Residential Program with up to fifteen (15) residents but not for corrections or substance abuse.
- CRPSA-15 Community Residential Program for Substance Abusers with up to fifteen (15) residents.
- CRPC-10 Community Residential Program for Corrections with up to ten (10) residents:

Table 1: Is a reference to the types of community residential programs as allowed *Permitted* (P) without Commission Approval or by *Special Use Permit* (SUP) requiring Commission hearing and approval or simply *Not allowed* (N/A).

	CRP-5	CRP-15	CRPSA-15	CRPC-10
R-1	P	SUP	N/A	N/A
A-1	P	P	SUP	SUP
R-2	P	P	SUP	N/A
O-1	P	SUP	SUP	N/A
C-1	SUP	SUP	SUP	N/A
C-2	SUP	SUP	N/A	N/A
M-H	SUP	SUP	N/A	N/A

Completely enclosed building

A building separated on all sides from adjacent open space, or from other buildings or structures by a permanent roof and by exterior or party walls, pierced only by windows and normal entrance or exit doors.

Conditional use

A use that would not be appropriate generally without conditions attached thereto, such as, but not limited to: number, duration, location, restrictive provisions, etc., which conditions if met, would promote the improved utilization of land or structures, appearance, prosperity or general well being, such conditional use having not been anticipated, would not be specifically provided for in district regulations as would be in a "Special Exception", however such conditional use shall be minor in nature and shall not substantially violate the prohibitions listed under "variances".

Condominium or cooperative apartment

A building designed for or containing apartments and/or rooms or suites for individual or cooperative ownership by individuals or corporations or both, and which may furnish services for joint use of tenants such as, but not limited to: laundry facilities, swimming pools, saunas, hot tubs, gyms, social rooms, kitchens, and the like for the exclusive use of the owners and their guests.

Construction, actual

Includes excavation or fill, placement of construction materials on the site in permanent position and fastened in a permanent manner; except that when demolition or removal of an existing structure has been accomplished and/or excavation or fill has begun it shall be

deemed to be actual construction, provided that work is diligently carried on until completion, with no period exceeding 60 days when no work is done on site.

Contiguous

A relationship to or adjacent to which is separated only by an alley.

Convenience store

A retail business establishment designed and intended to provide limited shopping facilities for foodstuffs, notions, household needs, snacks, gasoline and oil, and the like.

Coverage of a lot

That percentage by area of a lot or lots covered or occupied by buildings, including accessory buildings, determined by projecting lines of exterior walls to the grade surfaces.

Detached structure

Any structure shall have no party wall or common wall with another structure. Bridges, tunnels, breezeways and other similar means of connecting one structure to another shall not, for the purposes of this chapter, be considered to constitute a path wall or common wall.

Dwelling

Any building or portion thereof which is designed or used for residential purposes.

Dwelling group

Two (2) or more buildings which are utilized as dwellings located on the same lot. The individual dwellings may have a common division wall but such wall must be void of all openings.

Dwelling, single family

A building classified as a dwelling which contains one (1) living or family unit, and which contains one (1) or more rooms including a single kitchen and is designed primarily for living and sleeping purposes.

Dwelling unit

One room or rooms connected together constituting separate, independent housekeeping facilities for residential occupancy, and physically separated from any other rooms or housekeeping facilities in the same structure, and containing independent cooking, bathroom and sleeping accommodations.

Erected

This word includes "built", "constructed", "re-constructed", "moved-upon" or any other operation on the premises applicable to actual construction as herein defined.

Family or family unit

One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, law or marriage, no such family shall contain over five (5) persons, excluding domestic servants employed on the premises.

Farm

A tract or area owned by one (1) person acting as a unit which is used for the growing of the usual farm products and their corresponding storage as well as the raising thereon of the usual farm poultry and animals, except swine. A farm does not include commercial feed lots, commercial dairies or other intensive livestock raising on tracks of less than forty (40) acres.

The farm shall include the sale and distribution of farm products other than machinery and signs not exceeding forty (40) square feet are allowed for the advertising of such farm products. Only products which are grown or raised upon the property will be eligible for sale thereby making a division between a major commercial enterprise and private farming.

Fence, solid or wall

A continuous non-transparent surface exclusive of openings for ingress and egress. Wire or chain link fencing is not to be construed as satisfying this definition unless such fabric has slats.

Filling station

Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, principally for automobiles, and where, in addition, minor repairs and minor adjustments may be performed. Uses permissible at a filling station, as herein defined, do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in working condition or other work involving undue noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage nor a body shop.

Floor area

The area in square feet for each story within the building or dwelling including all exterior walls. Interior patios or courts shall not be included.

Garage apartment

An accessory or subordinate building, not a part of or attached to the main building, where a portion thereof contains living facilities for not more than one family and the enclosed space for at least one automobile is attached to such living quarters.

Garage, private

An accessory structure designed or used for inside parking of self-propelled private passenger vehicles by the occupants of the main building. A private garage attached to or a part of the main structure is to be considered part of the principal use. An unattached private garage is to be considered as an accessory building. A carport is considered a private garage.

Garage, repair

Buildings and premises which may be designed and intended for some or all of the purposes described under "filling station" but which, unlike a filling station, includes provisions for major mechanical repairs and/or body work, provided that such repairs and work shall be conducted wholly within an enclosed building and that all vehicles not in safe operating condition shall be stored in areas completely concealed from view from any public way or from adjacent properties.

Grade

The average of the finished ground elevation at the center of all walls of a building or dwelling.

Guest

Any person or individual that rents or occupies a room for sleeping purposes.

Guest house or cottage

A dwelling unit in a building separate from and in addition to the main residential structure on a lot, intended for intermittent occupancy (not to exceed 16 weeks in a calendar year) by gratuitous guests and not for rental, lease or otherwise used for profit.

Height of building

The vertical distance from grade of the front elevation of the building to the highest point of the coping if a flat roof, or to the deck line of a mansard roof, or the average height between the plate and ridge of a gabled, hip, or gambrel roof.

Home occupation

An occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use, which use is clearly incidental to the use of the dwelling unit for residential purposes.

Hotel

A building containing at least six (6) rooms designate for use as sleeping purposes and which have no provisions for cooking or kitchen privileges within the individual rooms.

Household Pets

For purposes of this Chapter, household pets (bird, dog, cats, reptiles and hamsters) are allowed for a premise providing further that said animals shall not run at large.

Institutional or institutional use

Generally a building or structure used or occupied by a governmental unit or non-profit corporation and engaged in governmental or humanitarian uses.

Kennel

A premises where dogs and other domestic small animal pets are kept, sheltered, bred, raised and/or boarded for hire, profit or charge, or any premises where a greater number than five (5) of dogs, cats or both of an age greater than eight (8) weeks of age are kept, owned or maintained.

Kitchen

A room within a dwelling or building used or intended for use in cooking and the preparation of food.

Land-use district

A district of designated land use regulations explained specifically within this ordinance.

Land-use administrator

An individual designated by the City Manager to enforce this ordinance, this can consist of the Code Enforcement Officer or a representative of the Planning Department.

Laundromat, laundry, coin operated

A business which provides home-type washing, drying or dry-cleaning or ironing machines for hire to be used by customers on the premises.

Livestock

For purposes of this Ordinance, the following animal horse, cow, ducks shall obtain for a premises or lot providing further that said animals shall not run at large and further provided that no animals shall be kept nearer to the nearest neighbor's home than to the home of the owner. Swine are not allowed.

Living area, residential

A space within the confines of the four walls of a structure which is completely enclosed by masonry, wood or glass and is habitable the year round. Garages and carports attached or detached are excluded.

Loading space, off street

Space logically and conveniently located for bulk pick-ups and deliveries, scaled to deliver vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces, if any, are filled. Any required off-street parking space computations shall not include required off-street loading space.

Lodging house

A building or part thereof, other than a hotel or motel, where sleeping accommodations for three but not more than twenty persons is provided for hire more or less transiently without provisions for cooking by guests but which may or may not provide meals for guests and which may also serve as the residence for the owner or operator.

Lot

For the purposes of this land use ordinance, a lot is a parcel of land with frontage on an improved public street or an approved private street and may consist of: (a) a single lot of record; part of a subdivision, the plat of which has been recorded in the office of the San Juan County Recorder, or a parcel of land, the deed of which was recorded on or before the effective date of this ordinance in the Office of the San Juan County Recorder; (b) a portion of a lot of record; (c) a combination of complete lots of record, or complete lots of record and portions of lots of record, or of combinations of portions of lots of record; (d) a parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created that does not meet the requirements of this Zoning Ordinance or other applicable law.

Lot, corner

A lot abutting upon two or more streets at their intersection.

Lot, double frontage

A lot having frontage on two non-intersecting streets as distinguished from a corner lot.

Lot frontage

The front of a lot shall be considered that portion nearest to the street. For the purpose of determining yard requirements on corner lots and double frontage lots, all sides of a lot adjacent to streets shall be considered frontage.

Lot of record

A lot which existed through platting or metes and bounds description and was filed in the Office of the County Clerk or Recorder and is reflected on the records of the County Assessor prior to the date of adoption of this Ordinance.

Lots, measurement

Depth. The depth of a lot shall be considered to be the distance between midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

Width. The width of a lot shall be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that the width between side lot lines at their-furthest points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in the case of lots fronting upon the turning circle of a cul-de-sac, where the eighty (80) percent requirement shall not apply.

Manufactured home

A manufactured home or modular home is a single-family dwelling with a heated area of at least thirty-six (36) feet by twenty-four (24) feet and at least eight hundred sixty-four (864) square feet, constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et. seq.) and the *Housing and Urban Development Zone Code II* or the *Uniform Building Code*, as amended to the date of the units construction, and installed consistent with the Manufactured Housing Act (Chapter 60, Article 14 NMSA 1978 and with the regulations made pursuant thereto relating to *ground level installation* and ground anchors.

Medical Cannabis & Medical Marijuana Dispensaries

Medical cannabis business shall be licensed and supervised in accordance with Sections 26-2B-1 through 26-2B-7 NMSA 1978, of the "Lynn and Erin Compassionate Use Act" and as administered by the New Mexico Department of Health, Public Health Division, Medical Cannabis Program. Such businesses shall not be permitted within 300 feet of any school, church, or daycare center and are only allowed in C-1, C-2, and M-1 Zoning Districts.

Mining

That land use and activity, including the land, necessary or incidental to the digging, excavating or otherwise procuring minerals, aggregates, and ores found in their natural state, but does not include the operating of a rock crusher or rock screen as commonly used in small sand and gravel operations.

Mobile home

A movable or portable housing structure larger than forty (40) feet in body length, eight (8) feet in width or eleven (11) feet in overall height, designed for and occupied by no more than one family for living and sleeping, purposes but does not include structures built to the standards of any municipal building code or other technical codes.

Mobile home park (trailer park)

Premises under single ownership where two or more mobile homes or house trailers are parked for living or sleeping purposes or where spaces or lots are set aside or offered for rent for use by mobile homes for said purposes, including any land, building structure, facility used by, or activity engaged in by occupants of mobile homes on said premises.

Mobile home subdivision

A subdivision designed and intended for residential use, where residence is exclusively in Mobile Homes or Trailer Houses, and lots are sold for the placing of Mobile Homes.

Motel

A building or group of buildings containing sleeping accommodations or efficiency units in conjunction with which there may be tourist convenience facilities such as, but not limited to, restaurant, swimming pool or other recreational facilities primarily designed and intended for the use of guests.

Multiple family dwelling

A residential building designed for or occupied by two or more family units with the number of families in residence not exceeding the number of dwelling units provided; with separate housekeeping, sleeping, bathroom, and kitchen facilities for each family.

Nonconforming lots, uses of land, uses of structures and premises and characteristics of uses

Any building or land lawfully existing or occupied by a use at the time of adoption of this Zoning Ordinance or amendment thereto, which does not conform after adoption of this Zoning Ordinance or amendment thereto with the regulations of the district in which it is located.

Nursery school

A building or dwelling in which three (3) or more children are kept who are not members of a family and where supplemental parental care is provided and may include such functions as kindergarten, day nurseries, or day care for children.

Nursing home

A home for the aged, chronically ill, or incurable persons in which three or more persons, not of the immediate family are received, kept or provided for with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Occupied

The word "occupied" includes arranged, designed, built, altered, converted to, rented, leased, or intended to be used or occupied.

Parcel of land

A contiguous area or quantity of adjacent land that is owned by the claimant of property owner.

Parking

The word "parking" shall mean the temporary, transient storage of private motor vehicles used for personal transportation while their operators are engaged in other activities. Parking shall not include the storage of new or used cars for sale, service, repairs, salvage or any other purpose than that above specified.

Parking lot

A tract or area on a lot or plot which contains four (4) or more off-street parking spaces and is constructed according to the standards as defined in Section 26-23-2.

Parking, off-street

A space adequate for parking a passenger vehicle with room for opening doors on both sides. Parking of such vehicle shall not cause any obstruction or hindrance to the flow of traffic, interfere with pedestrian movement, or block access to a property or building, or present a safety issue.

Person

An individual, partnership, joining venture, club, association, organization, corporation, trust, or syndicate or any other group or combination of persons which act as a single unit.

Planned unit development

A tract of land which is developed as a unit under single ownership or control, which includes at least three (3) acres in area for commercial, residential, and public land uses or ten (10) acres for manufacturing and agriculture uses. Standards for planned unit developments are set forth elsewhere in this ordinance.

Porch

A roofed-over space, with the roof impervious to weather, attached to the outside of the exterior wall of a building, which has no enclosure other than that above mentioned exterior wall or walls of the building to which it is attached. Open mesh screening shall not be considered an enclosure.

Poultry

Any chickens, turkeys, ducks, geese, guineas or other fowl excepting such recognized pet species as canaries, finches, parakeets, parrots, mynah birds, etc.

Premises

Includes the land, plot, lot or tract together with any building structures or dwellings thereon.

Reasonable return

The Supreme Court and state courts determine reasonable return based on a variety of circumstances and factors with land use cases.

Remodeling, redecorating or restoring

Any change, removal, replacement or addition to existing walls, floors, ceilings and roof surfaces or coverings.

Restaurant

A restaurant is an establishment designed and used primarily for the purpose of serving meals to seated patrons. In a restaurant, as herein defined, alcoholic beverages, if otherwise lawful, may be served, but the service of same is clearly subordinate to the primary function of food preparation and service. Similarly, food may be sold for consumption off the premises, but this service is also secondary and clearly subordinate to the above stated primary function of preparing the serving food to seated patrons.

Restaurant, drive-in or fast food

Such an establishment is designed and used primarily for the purpose of preparing and dispensing meals and food items to patrons for consumption off the premises or in automobiles on the premises. A drive-in or fast-food restaurant may also have a dining room or patio in which seated patrons are served, but where self-service is more common. The test to be applied in definition is that of secondary and clearly subordinate use or design for use.

Setback

The shortest distance between a structure and the present or future street line or property line.

Shopping center or mall

A group of retail stores and/or service establishments planned and developed as a unit for sale or lease.

Signed petition method

The process by which a petition on 8-1/2 by 11 inch paper will be used to collect signatures. The form and content of which will require the review and approval of the City Planner. The petition will require statement of purpose and signature lines. The signature lines will require printed date of signing, printed name of petitioner, address of petitioner, and signature of petitioner.

Site development plan

A site development plan is a comprehensive plan that addresses all infrastructure and structural needs and requirements to facilitate the development of the site. These plans should include but are not limited to traffic ingress/egress, parking, utility requirements and locations, building designs, etc.

Special use

A special land use allowed in any zone, with special approval of the City Commission, when found to be in the interest of the public health, safety, morals and general well being of the City of Aztec.

Story

The part of a building or structure from one floor to the next floor above or to the ceiling above if there is no second floor.

Street

The public right-of-way which has been dedicated or secured for the public use and which affords the principle means of access to the adjoining lots or plots, but does not include an alley. The centerline of the street is a line halfway between the street right-of-way lines.

Structure

Anything constructed or erected which requires space on the lot or plot but does not include a trailer, mobile home, vehicle or tent.

Structural alteration

Any change in the supporting frame or members of a building or structure, including such items as bearing wall, beams, columns, and trusses.

Tract

A parcel of land or a group of contiguous parcels of land having one owner.

Trailer, camping or travel (includes motor home)

A vehicle other than a mobile home used or so constructed as to permit being used as a conveyance upon the public streets or highways and duly licensed as such and constructed in such a manner as will permit occupancy thereof for human habitation, dwelling or sleeping places for one or more persons, not exceeding 35 feet in length. Such vehicle may be used for dwelling purposes for a maximum of fourteen (14) days in any calendar year on any given lot. The recreational vehicle may not be permanently connected to sewer lines, water lines, or electrical lines.

Truck stop

A terminal advertised or used primarily for the refueling, washing, repairing, and servicing of trucks in excess of one ton rated capacity; said facility may include accommodations for eating and sleeping and other incidental facilities useful to truck drivers.

Use

The purpose under this ordinance for which land or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained, let or leased.

Variance

A departure from the strict application of area, height or setback requirement of this Ordinance which is the result of the physical characteristics of the lot.

Vision Clearance

A triangular space at the intersection of a street with another street, drive or other path of vehicular access and within which no object wider than 12 inches shall project to a height greater than 36 inches including structures, vehicles, vegetation, or any other obstruction to clear eyesight. The area of vision clearance shall be determined by measuring along adjacent right-of-way lines a distance of twenty-five feet said points with a line thereby forming a triangle (excluding radii at block corners) with the two subject right-of-way lines.

Yard, front

An open area extending across the full front of the lot and having a depth equal to the shortest distance between the front of the lot and nearest wall of the main building and is unoccupied and unobstructed by any structure, dwelling or building except a 3-foot wall.

Yard, rear

An open area extending across the full width of the rear of the lot and having a depth equal to the shortest distance between the rear lot line and the closest part of the building, structure, or dwelling.

(Ord. 2023-533, eff. 2023-July-17; Ord. 2018-487, eff. 2019-Feb-19; Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-121)