

ORDINANCE NO. 11-4-1-REVISED

**AN ORDINANCE ADOPTING COMPREHENSIVE
ZONING REGULATIONS AND ZONING MAPS, AND
AMENDING AND REPLACING PREVIOUS ZONING ORDINANCES,
FOR THE TOWN OF ESTANCIA, NEW MEXICO.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF ESTANCIA,
NEW MEXICO, AS FOLLOWS:**

SECTION 1. TITLE.

These regulations shall be known as the “Comprehensive Zoning Ordinance” of the Town of Estancia, New Mexico, and shall be referred to herein as “this Ordinance.” This Ordinance replaces and supersedes the Comprehensive Zoning Ordinance passed by the governing body of the Town of New Mexico on June 5, 1997, and all subsequent amendments thereto.

SECTION 2. PURPOSE.

The regulations and restrictions of this Ordinance are designed to avoid congestion in the streets and public ways; to secure safety from fire, flood, and other dangers; to promote the general welfare of the community; to protect and conserve water resources; to prevent the overcrowding of land; to facilitate adequate provisions for transportation, water, sewerage, schools, parks, and other community requirements; to conserve the value of property; and to encourage the most appropriate use of land throughout the Town of Estancia.

SECTION 3. APPLICABILITY.

No structure shall be constructed, placed, or maintained, and no land use commenced or continued, within the Town of Estancia except as authorized by this Ordinance. The provisions of this Ordinance are held to be minimum requirements to carry out the purpose of this Ordinance and are not intended to interfere with any other law, covenant, or ordinance. Whenever any provision of this Ordinance is more or less restrictive than other laws, covenants, or ordinances, then whichever is more restrictive shall govern.

SECTION 4. DEFINITIONS.

A. Word Forms. Words used in the present tense include the future tense, and words used in the future tense include the present tense. The singular number includes the plural number and the plural number includes the singular number. The words “shall” and “must” are mandatory, and the word “may” is permissive.

B. Definitions. For the purpose of this Ordinance, standard dictionary definitions are used except for certain words or phrases used herein which shall be defined as follows:

1. “Accessory” means subordinate and incidental to a principal use or structure on the premises.
2. “Boarding, Rooming, or Lodging House” means a building other than a hotel, motel, or restaurant where lodging, with or without meals, is provided for compensation. Such a building shall not contain more than five guest rooms. This definition includes a “Bed and Breakfast” enterprise.
3. “Building” means a structure, of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property, or business activity.
4. “Conditional Use” means a use which may be or become a nuisance or hazard to neighboring properties if proper safeguards are not taken. Conditional uses require a permit following review and approval by the Planning Commission.
5. “Contiguous” means touching or separated only by a public right-of-way.
6. “Dwelling, Multiple” means a structure containing two or more dwelling units.
7. “Dwelling, Singular” means a dwelling unit that is not physically connected to any other dwelling unit.
8. “Dwelling Unit” means any structure or part of a structure containing one or more connected rooms and a single kitchen designed to be occupied by one family for living and sleeping purposes. A dwelling unit may be manufactured housing or site-built housing.
9. “Family” means one or more persons occupying a dwelling unit, provided that unless all members are related by blood, marriage, adoption, or legal assignment, no such family shall include more than five persons.
10. “Floor Area” means the total gross area of all floors of a building, expressed in square feet measured from the outside surfaces of exterior walls.
11. “Floor Area Ratio” means the relationship of the floor area to the lot area, computed by dividing the floor area by the lot area.
12. “Grade” means the average of the finished ground level at the center of all walls of a building.
13. “Height” means the vertical distance measured from the lowest ground elevation to the highest point on a structure. When applied to buildings, height means the vertical distance from the grade to the highest point of the roof line.

14. “Home Occupation” means a business or commercial activity which is conducted within a dwelling unit or an accessory structure within a residential zone district, and which is clearly secondary to the residential use of the premises.
15. “Lot” means a tract or parcel of land platted and filed for record or recorded in the Office of the Clerk of Torrance County, New Mexico, with access to a public right-of-way.
16. “Lot Area” means the area contained within the boundary lines of a lot.
17. “Lot, Corner” means any lot bordering on two or more streets at their intersection.
18. “Lot, Double Frontage” means any lot bordering on two parallel or approximately parallel streets.
19. “Lot Line, Front” means the boundary line of a lot bordering on a street or public right-of-way.
20. “Lot Line, Rear” means the boundary line of a lot which is opposite and most distant from the front lot line and does not connect to the front lot line.
21. “Lot Line, Side” means any lot boundary line which is not a front lot line or a rear lot line.
22. “Manufactured Home” (also known as mobile home) means a movable or portable housing structure constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and which may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or may be two or more units separately towable but designed to be joined into one integral unit, as well as a single unit. A manufactured home shall be certified as meeting the National Manufactured Housing Construction and Safety Standards. “Manufactured home” does not include recreational vehicles, or modular or premanufactured homes built to Uniform Building Code standards designed to be permanently affixed to real property.
23. “Manufactured Home Park” means a tract of land on which space is leased or rented for occupancy for 30 days or more for manufactured homes, and which contains permanent facilities and services for the use of the manufactured home occupants.
24. “National Flood Insurance Program” means the federal program promulgated by the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973. The Town is a participating community in this program and has adopted

floodplain management regulations for designated flood-prone areas within the Town.

25. “Nonconforming Uses, Lots, or Structures” means any building or structure, or portion thereof, or use of any building or land, which does not conform to the regulations of this Ordinance and which lawfully existed on the effective date of the regulations to which it does not conform.
26. “Parking, Off-Street” means an area on a lot used for required parking of motor vehicles as regulated by this Ordinance.
27. “Permissive Use” means any use authorized in a particular zone district established by this Ordinance.
28. “Person” means any individual, estate, trust, receiver, association, club, corporation, company, firm, or other entity.
29. “Planned Area Development” means a special use zone applied to a residential subdivision that does not wholly conform to the requirements of any of the residential zones defined in this Ordinance, but is deemed to be desirable and in accord with the public good. Such a zone may be crafted to allow appropriate development of property that can not accommodate the restrictions imposed by other residential zones, because of restraints caused by irregular boundaries, unusual terrain, or previous development, or because it incorporates the use of new or unconventional methods of construction or arrangement of structures. Such a zone shall be defined by the Planning Commission in consultation with the developer, and may permit smaller lot sizes, road widths, setbacks, and other features than those required in other residential zones and waive other requirements common to such zones. It may also require the dedication of public-use areas such as parks or playgrounds; prohibit or restrict accessory buildings, structures, and uses; require traffic-control features and restrict parking; require flood diversion and retention provisions, landscaping, or other terrain management improvements; and require specific approval of the size, construction, architecture, placement, and other features of the residential units permitted.
30. “Planning Commission” means the Planning Commission of the Town of Estancia.
31. “Premises” means any lot or combination of contiguous lots held in single ownership, together with the development thereon.
32. “Public Right-of-Way” means a strip of land intended for use as a thoroughfare which has been dedicated to the public by deed, or reserved by plat, or otherwise acquired by the Town, county, state, or federal government.

33. “Recreational Vehicle” means a vehicle which is designed or used as a temporary living quarters for recreation, camping, or travel, and which may be a self-propelled motor vehicle or designed to be towed by or mounted on a motor vehicle. Recreational vehicles shall not be stored within the front setback of a lot for a time period exceeding 24 hours.
34. “Setback” means the minimum allowable distance between any building and the boundary lines of the lot upon which it is located, consisting of open space, and unoccupied by any structure except as otherwise provided in this Ordinance. Yard walls, fences, signs, and public utility structures are exempt from setback restrictions.
35. “Setback, Front” means the minimum allowable distance between any building and the front lot line of the lot on which such building is located. No more than one front setback shall be designated on corner lots or double frontage lots.
36. “Setback, Rear” means the minimum allowable distance between any building and the rear lot line of the lot on which such building is located. On double frontage lots, the rear setback shall be designated on the opposite side of the lot from the designated front setback.
37. “Setback, Side” means the minimum allowable distance between any building and a side lot line of the lot on which such building is located. On corner lots, a side setback shall be designated along one of the lot lines bordering a road or street.
38. “Sign” means a structural device using graphic symbols or written messages to communicate information to the public by directing attention to a product, place, activity, person, institution, or business.
39. “Site Development Plan” means an accurate plan at a scale of at least one inch to 100 feet which specifies the site, proposed use, pedestrian and vehicle ingress and egress, minimum lot size, and, for each lot, maximum building height and minimum building setbacks, and such other data as may be required by the Planning Commission.
40. “Structure” means anything constructed or erected with a permanent location on the ground, or attached to something having a permanent location on the ground.
41. “Town” means the Town of Estancia, Torrance County, New Mexico.
42. “Town Board” means the Board of Trustees of the Town of Estancia.
43. “Town Clerk” means the chief administrative officer of the Town of Estancia as so designated by the Town Board.

44. “Townhouse” means a dwelling unit which is intended to abut one other dwelling unit. A Townhouse shall share a common lot boundary with a Townhouse constructed on an adjacent lot, and may be separately owned.
45. “Variance” means a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary hardship. As used in this Ordinance, a variance may be authorized only for area, height, dimension, distance, setback, and off-street parking requirements. Financial gain or loss shall not be the determining factor in deciding a variance.
46. “Vehicle” means a mechanical device for transporting people or property on a road or highway, with the exception of devices moved by human or animal power.
47. “Zone District” means an area of the Town of Estancia where regulations governing the use of buildings, structures, and land are uniform.
48. “Zoning Officer” means an appointee of the Town who shall administer the provisions of this Ordinance.

SECTION 5. GENERAL PROVISIONS.

- A. Access to Structures. All structures shall be appropriately located on lots in order to provide safe and convenient access for servicing, fire protection, and any required off-street parking or loading.
- B. Accessory Buildings. One or more accessory buildings may be placed on a lot provided that no accessory building will exceed the floor area of the building which is the principal use on the premises, and further provided that no accessory building will be located closer than ten feet from any other buildings on contiguous lots.
- C. Development Plans. Unless otherwise provided herein, any site development plan that is required in this Ordinance shall include the following components:
 1. A site plan on a map, to scale, showing boundaries and the location, dimensions, and purpose of all buildings and structures, existing and proposed.
 2. The location and dimensions of all contiguous streets or roads, on-site utility easements indicating their purpose, and parking and loading areas.
 3. A description of the natural features of the site such as topography and vegetation, any proposed alteration of those natural features, and an identification of any special drainage or flooding conditions on the site; and

4. A description of the buildings and structures on contiguous lands.
- D. Hazardous Materials. Bulk storage of toxic substances or hazardous materials within the Town of Estancia shall be conducted in a manner approved by the Fire Department.
- E. Home Occupations. Any activity defined by this Ordinance as a home occupation shall be subject to the following requirements:
1. Only members of the residing family and no more than one other person shall be engaged in the home occupation.
 2. There shall be no exterior indication of the home occupation except for one non-illuminated sign that is no larger than five square feet in area;
 3. Exterior storage of materials necessary for the home occupation is allowed only if it is surrounded by a solid wall or fence sufficient to provide a visual barrier to any contiguous residential properties;
 4. No more than 25 percent of the floor area of the dwelling unit shall be devoted to the home occupation, nor more than [a] 400 square feet floor area of an accessory building; and
 5. No equipment or process shall be used in a home occupation which creates a nuisance such as noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses, off the premises.
- F. Manufactured Homes.
1. Installation.
 - a. All manufactured homes installed within the town limits, including within permitted manufactured home parks, must be built to federal Housing and Urban Development (HUD) standards and must have been constructed no more than 10 years prior to the date of application for a development permit. If the manufactured home is pre-owned, it must be inspected and approved by a certified manufactured home inspector at the owner's expense.
 - b. Regardless of any setback regulations provided in this Ordinance, no manufactured home shall be placed within 20 feet of any other dwelling unit.
 - c. Manufactured homes shall be limited to residential use only, unless otherwise provided in this Ordinance.

- d. Manufactured homes shall be installed on permanent foundations that have been permitted, meet state building codes, and have been approved by the state.
- e. Within 30 days following placement on property within the Town, each manufactured home shall be connected to adequate utilities and provided with appropriate skirting of a durable material.
- f. Manufactured homes shall be stabilized and anchored in accordance with regulations promulgated in the Manufactured Housing Act of New Mexico (60-14-1 et seq. NMSA 1978), and any other regulations adopted by the Town.

2. Additions.

- a. New construction shall be built in accordance with New Mexico Uniform Building Code regulations.
- b. New construction considered an addition to a manufactured home requires a state building permit and must be granted a state certificate of occupancy. Such new construction must be a separate structure, have its own four walls, and have its own utilities that are not extensions of the manufactured home's systems. Such addition cannot be supported by the manufactured home, but may be sealed to an exterior wall of the manufactured home with flashing.

- G. Political Signs. Signs relating to a political campaign prior to an election or caucus may be permitted on any lot provided such signs shall not be placed more than 90 days prior to the election or caucus, and shall be removed within 10 days following the election or caucus.
- H. Vision Clearance. At all road or street intersections, no obstructions to view shall be placed or maintained between three feet and eight feet above the roadway level in a triangular space at the road or street corner on a corner lot. Such triangular space shall be bounded by the corner property lines and a diagonal line connecting points that are 25 feet in distance from the property line intersection.

SECTION 6. ZONE DISTRICT BOUNDARIES.

- A. Districts. In order to carry out the provisions of this Ordinance, the Town of Estancia is hereby divided into zone districts which are described in the following sections. The regulations prescribed in this Ordinance shall apply within the corporate limits of the Town of Estancia.
- B. Zoning Maps. The boundaries of all zone districts within the Town of Estancia are hereby established as shown on the official zoning maps maintained by the Town.

- C. Interpretation. Where due to the scale, lack of detail, or illegibility of the official zoning maps, there is any uncertainty, contradiction, or conflict as to the intended location of any zone district boundaries shown therein, interpretations concerning the exact location of zone district boundaries shall be determined by the Town Board with the advice of the Planning Commission.
- D. Multiple-Zoned Lots. Circumstances may justify the need to designate more than one zone district on a single lot. In such cases, zone district boundaries within a multiple-zoned lot shall be more fully described in the official zoning maps by showing any necessary dimensions of zone districts in relation to existing property lines.
- E. Annexation. Any request or proposal for annexation of territory to the Town of Estancia shall be filed and processed concurrently with an application for an amendment to the Zoning Ordinance. Zoning within annexed areas must be consistent with contiguous zoning, or must be in accordance with the Comprehensive Plan of the Town of Estancia.

SECTION 7. R-1 CONVENTIONAL RESIDENTIAL ZONE.

- A. Intent. The purpose of this zone district is to provide for the development of residential neighborhoods consisting of singular dwellings and certain other uses that are compatible with the residential character of this district. Density shall be limited to one dwelling unit per lot.
- B. Permissive Uses. Any of the following permissive uses is allowed in this zone district:
 - 1. One dwelling unit per lot. No two dwelling units may be placed on any portion of the same lot;
 - 2. Accessory buildings, structures, or uses, subject to the provisions of this Ordinance;
 - 3. Home occupation, subject to the provisions of this Ordinance;
 - 4. Family day care home, provided the activity is in compliance with state law;
 - 5. Storage of two recreational vehicles, provided they not be used as additional living quarters for longer than 30 days in any calendar year and are not permanently connected to utilities; and
 - 6. Public utility structure, provided its location is based on an appropriate plan that has been approved by the Town Board.
- C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Planning Commission in accordance with this Ordinance:

1. Boarding, rooming, or lodging house;
 2. Church or other religious building used as a place of worship; and
 3. Parking or placement of a recreational vehicle as a dwelling connected to any utility during construction of a dwelling unit on the premises, for a period of up to six months or until the construction is completed, whichever comes first. The six-month period shall begin to run from the date on which a development permit is issued for the dwelling unit.
- D. District Standards. The following regulations apply to all land uses in this zone district:
1. Minimum lot size shall be 6,250 square feet;
 2. Setbacks shall be maintained as follows:
 - a. Front setback shall be no less than 15 feet;
 - b. Side setback shall be no less than five feet;
 - c. Rear setback shall be no less than ten feet, however, on lots where the rear lot line is contiguous to a dedicated alley, then a rear setback is not required; and
 3. A minimum of two off-street parking spaces is required by this Ordinance.

SECTION 8. R-2 CLUSTER RESIDENTIAL ZONE.

- A. Intent. The purpose of this zone district is to accommodate higher density residential development and limited nonresidential uses which are compatible to the residential character of this district. Multiple dwellings are allowed in this district.
- B. Permissive Uses. Any of the following permissive uses is allowed in this zone district:
1. All uses permissive in the R-1 zone district; and
 2. Multiple dwellings, provided they are connected to centralized water and sewer systems.
- C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Planning Commission in accordance with this Ordinance:
1. All uses conditional in the R-1 zone district;
 2. Library, museum, or art gallery;

3. Medical clinic or dental office;
4. Laundromat; and
5. Barber or beauty shop.

D. District Standards. The following regulations apply to all land uses in this zone district:

1. Minimum lot size shall be 12,500 square feet for multiple dwellings and 6,250 square feet for singular dwellings.
2. Multiple dwellings are subject to the following restrictions:
 - a. The floor area ratio of any floor shall not exceed 0.5 on any lot; and
 - b. The gross density of a lot shall not exceed 20 dwelling units per acre;
3. Setbacks shall be maintained as follows:
 - a. Front setback shall be no less than 15 feet;
 - b. Side setback shall be no less than ten feet;
 - c. Rear setback shall be no less than ten feet; and
4. A whole-number minimum of 1.5 off-street parking spaces per dwelling unit is required by this Ordinance.

SECTION 9. R-3 TOWNHOUSE RESIDENTIAL ZONE.

- A. Intent. The purpose of this zone district is to provide for the development of higher-density residential neighborhoods consisting of single-unit dwellings abutting one another, each located on its own lot, and for certain other uses which are compatible to the residential character of the district. Density shall be limited to one dwelling unit per lot.
- B. Permissive Uses. Any of the following permissive uses is allowed in this zone district:
 1. One dwelling unit per lot, which is designed to abut a dwelling unit on an adjoining lot. There shall be no more than two dwelling units abutting one another. A dwelling unit may not straddle a lot line;
 2. Accessory buildings, structures, or uses, subject to the provisions of this Ordinance;
 3. Home occupation, subject to the provisions of this Ordinance;

4. Family day care home, provided the activity is in compliance with state law; and
 5. Public utility structure, provided its location is based on an appropriate plan that has been approved by the Town Board.
- C. Conditional Uses. There are no Conditional Uses in this zone.
- D. District Standards. The following regulations apply to all land uses in this zone district:
1. Minimum lot size shall be 4,400 square feet;
 2. Setbacks shall be maintained as follows:
 - a. Front setback shall be no less than 15 feet, except that driveways shall not be less than 20 feet long and the setback for a garage or carport shall not be less than 20 feet.
 - b. There shall be at least one side setback of no less than five feet, except that there shall be at least a ten-foot setback on all street sides of corner lots. Two dwelling units may abut one another along a common side boundary.
 - c. Rear setback shall be no less than ten feet; however, on lots where the rear lot line is contiguous to an alley, a rear setback is not required.
 - d. A minimum of two off-street parking spaces per lot is required by this Ordinance.
- E. Common Open Space. Commonly shared open space shall be provided within the subdivision at 400 square feet per dwelling unit, unless the proposed subdivision or replat consists of fewer than five lots. The open space may be in the nature of a park, playground, and/or exercise area.

SECTION 10. RR-1 RURAL RESIDENTIAL BASIC ZONE.

- A. Intent. The purpose of this zone district is to provide for rural suburban residential development and certain activities which are compatible with low density residential neighborhoods. The density in this zone district shall not exceed a density of one dwelling unit per minimum one-acre lot.
- B. Permissive Uses. Any of the following permissive uses is allowed in this zone district:
1. All uses permissive in the R-1 zone district;
 2. Appropriate agricultural activities subject to the following restrictions:

- a. Any building, pen, or corral for the containment of livestock shall be at least 30 feet from any existing dwelling unit;
 - b. Areas devoted to farm animals, including buildings and structures, shall be constructed and maintained to discourage the concentration and breeding of insects and rodents which are detrimental to human habitation; and
 - c. It shall be unlawful for any owner or keeper of livestock to allow such livestock to run at large on a public right of way or on public property or property owned by others.
- C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Planning Commission in accordance with this Ordinance:
- 1. All uses conditional in the R-1 zone district;
 - 2. Kennel, veterinary hospital, animal grooming parlor, or pet sales store.
 - 3. Greenhouse, nursery, or landscaping service; and
 - 4. The processing and packaging of goods from agricultural products and/or agricultural by-products.
- D. District Standards. The following regulations apply to all land uses in this zone district:
- 1. Minimum lot size shall be one acre.
 - 2. Setbacks shall be maintained as follows:
 - a. Front setback shall be no less than 20 feet;
 - b. Side setback shall be no less than 10 feet;
 - c. Rear setback shall be no less than 20 feet.

SECTION 11. (RR-2) RURAL RESIDENTIAL LARGE LOT ZONE.

- A. Intent. The purpose of this zone district is to provide for very low density residential development and compatible rural or agricultural activities. Residential development in this zone district is characterized by large lots and shall not exceed a density of one dwelling unit per minimum ten-acre lot.
- B. Permissive Uses. Any of the following permissive uses is allowed in this zone district:

1. All uses permissive in the RR-1 zone district.
- C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Planning Commission in accordance with this Ordinance:
1. All uses conditional in the RR-1 zone district.
- D. District Standards. The following regulations apply to all land uses in this zone district:
1. Minimum lot size shall be ten acres;
 2. Setbacks shall be maintained as follows:
 - a. Front setback shall be no less than 50 feet;
 - b. Side setback shall be no less than 50 feet;
 - c. Rear setback shall be no less than 50 feet-

SECTION 12. C-B COMMERCIAL BUSINESS ZONE.

- A. Intent. The purpose of this zone district is to provide for the commercial and business needs of the community. This zone district includes highway-related commercial activities, office and entertainment facilities, retail sales, and service providers. Development in this zone district shall not be detrimental to nearby residential uses.
- B. Permissive Uses. Any of the following permissive uses is allowed in this zone district:
1. All uses permissive in the R-2 zone district;
 2. Retail commercial establishments;
 3. General and professional offices;
 4. Business and personal services; and
 5. Banking and financial services.
- C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the Planning Commission in accordance with this Ordinance:
1. All uses conditional in the R-2 zone district;
 2. Hotels and motels;
 3. Eating and drinking establishments;

4. Motor vehicle sales and services, including commercial garages, provided that:
 - a. Any repair work shall be conducted entirely within an enclosed building;
 - b. Outdoor storage of materials shall be enclosed by a solid wall or fence sufficient to provide a visual barrier; and
 - c. Outdoor storage of vehicles awaiting repair and/or delivery shall be limited to no more than three vehicles per enclosed service bay.
 5. Manufactured housing sales establishment.
 6. Kennel, veterinary hospital, animal grooming parlor, or pet sales store; and
 7. Small scale processing associated with a commercial business establishment provided that all processing activities are conducted within a building and shall not produce negative off-site impacts.
- D. District Standards. The following regulations apply to all land uses in this zone district:
1. There shall be no minimum lot size, provided that land uses are in conformance with the provisions of this Ordinance;
 2. Setbacks shall be maintained as follows:
 - a. Front setback shall be no less than 15 feet;
 - b. Side setback shall be no less than 10 feet;
 - c. Rear setback shall be no less than 15 feet; and
 3. Off-street parking space is required by this Ordinance.

SECTION 13. H-P HISTORIC PRESERVATION DISTRICT.

- A. Intent. The purpose of this zone district is to preserve and promote the historical character of the Town of Estancia through the preservation of architectural styles prevalent in a specified area of the Town. The Historic Preservation District shall be generally described as the buildings and lands abutting New Mexico Highway 41 between Loring Avenue and Leonard Avenue. Land uses in this zone district are predominantly business and commercial in nature, but mixed uses are acceptable, including residential dwelling units.

- B. Conditional Uses. All uses in this zone district shall be conditional uses which may be allowed only upon permit granted by the Planning Commission in accordance with this Ordinance.
1. Every reasonable effort shall be made to preserve the distinguishing qualities and historical character of the existing buildings. The removal or alteration of any historic or distinctive architectural features should be avoided;
 2. Alterations and new construction which have no historical basis or which seek to create an uncharacteristic appearance shall be discouraged;
 3. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced;
 4. Alterations to any buildings or structures which are entered in the New Mexico Register of Cultural Properties shall be subject to review by the State Historic Preservation Officer and shall comply with the N.M. Cultural Properties Act (18-6-1 et seq. NMSA 1978); and
 5. Minimum lot size, setback, building height, and off-street parking requirements may be imposed by the Planning Commission as a condition of development in this zone district. Such requirements shall be established on a case-by-case basis and shall be stated in writing and attached to the Conditional Use Permit.

SECTION 14. S-U SPECIAL USE ZONE.

- A. Intent. This zone district provides for types of development which require special consideration because of their magnitude, unusual nature, infrequent operations, questionable impact on surrounding property, or other similar reason. The boundaries of this zone district shall be defined as needed on a case-by-case basis and shall be designated by the Town Board following the amendment procedures provided in this Ordinance. Special conditions may be imposed by the Town Board giving consideration to any recommendation of the Planning Commission. The Town Board may not grant a zone change for the establishment of a Special Use Zone district unless satisfactory provisions have been made:
1. To assure that a compatibility of land uses is maintained in the general area and that the proposed use is not in conflict with the development policies and other elements of the Comprehensive Plan for the Town of Estancia;
 2. To preserve the integrity and character of the area in which the Special Use Zone district will be located, and to preserve the utility of property in contiguous zone districts; and

3. To assure that the Special Use Zone will not become detrimental to the public health, safety, or general welfare of the Town of Estancia.
- B. Plan Requirement. Each application for a Special Use Zone must declare the proposed use for the zone district and must be accompanied by a site development plan as specified by this Ordinance.
- C. Removal of Zones. In the event that a use authorized as a Special Use Zone is permanently discontinued for a period of at least 90 days, the Special Use Zone district may be cancelled and removed under the provisions for an amendment to this Ordinance. That area delineated by a discontinued Special Use Zone district shall be rezoned to an appropriate zone district as determined by the Town Board following a recommendation by the Planning Commission.
- D. Designated Uses. A Special Use Zone district may be established only for the following uses designated by the Town Board:
1. Airport, subject to the regulations of state or federal aviation agencies;
 2. Antenna or other wireless communication facility exceeding 50 feet in height.
 3. Dairy, slaughter house, or feed lot.
 4. Detention facility, or penal institution, subject to the following requirements:
 - a. All buildings and structures comprising the detention facility shall be placed no less than 3,000 feet from any existing dwelling units located off the premises of the detention facility.
 - b. Adequate water supply and wastewater treatment systems shall be available to serve a fully-occupied detention facility; and
 - c. An all-weather access road shall be provided from the detention facility to the nearest arterial highway;
 5. Fairgrounds, recreational complex, stadium;
 6. Fuel wholesalers and storage (e.g., gasoline and other petroleum products), provided that all facilities shall not be placed within 300 feet of any residential structure unless sufficient blast, explosion, or fire confinement structures are installed in accordance with state regulations;
 7. Government facilities;

8. Manufacturing, compounding, assembling, or treatment of products which are made from raw or processed materials in accordance with state or federal environmental pollution standards;
9. Manufactured Home Park, subject to the following regulations:
 - a. A manufactured home park shall be served by community water and sewer systems and constructed to specifications acceptable to the Town of Estancia;
 - b. Each manufactured home shall be situated on a space that is no less than 3,500 square feet;
 - c. At least two off-street parking spaces per manufactured home are required;
 - d. No manufactured home shall be located within 20 feet of any other manufactured home or structure. A manufactured home shall be at least 25 feet from a public right-of-way and shall be no less than ten feet from any property line of the manufactured home park.
 - e. A common area for recreational use by park residents shall be developed and situated in a central location within the manufactured home park. At least 300 square feet of usable open space shall be designated for the common area per manufactured home space in the manufactured home park; and
 - f. A manufactured home park shall have at least one entrance drive from a public road or street, and access to individual units shall be from private drives within the manufactured home park. Private drives shall be no less than 30 feet in width.
 - g. If the Town does not have a Recreational Vehicle Park, a recreational vehicle may be used for temporary, short-term residential occupancy in a manufactured home park, as long as that occupancy does not exceed six months. For purposes of this Ordinance, if a recreational vehicle is occupied in a Manufactured home Park, it will be considered a manufactured home for determination of location and density.
10. Nursing home, assisted living facility, group home.
11. Park or recreational facility.
12. Planned Area Development (PAD), subject to the following requirements:

- a. A PAD shall incorporate a unified planning scheme for residential and other supportive land uses which cover an area of three acres or more;
 - b. A PAD may be constructed in increments, provided a development-phasing schedule showing anticipated initiation and completion of each phase is documented, and provided each phase includes a Site Development Plan as required for this zoning district. The Site Development Plan must be approved by the Planning Commission and recommended to the Town Board for approval as part of the Special Use Zone designation or zone change process. The initial life of a Site Development Plan will be seven years from the date of approval, after which time it will be terminated unless a request for a five-year extension is approved by the Planning Commission;
 - c. A supportive data document shall be required and shall contain statements and information concerning the following:
 - 1. Purpose and intent of the PAD;
 - 2. Internal and external land use relationships;
 - 3. Distribution, type, and intensity of land uses proposed;
 - 4. Development phasing schedule, if applicable;
 - 5. Description of the size, construction, architecture, placement, and other features of the residential units proposed, as may be required by the Planning Commission;
 - 6. Proposed public features; and
 - 7. Projected traffic impact when the PAD is fully built out;
 - d. A portion of the land within a PAD may be dedicated to the Town for use as a public park, playground, or other recreational facility, as may be required by the Planning Commission.
13. Recreational Vehicle Park, subject to the following regulations:
- a. Facilities shall not be in conflict with the regulations established by the New Mexico Environment Department and the New Mexico Office of the State Engineer concerning water and sewage treatment. Recreational vehicle parks whose pad elevations have not been certified to be above the minimum elevations as defined in the Town's flood protection ordinance are subject to the restrictions on recreational vehicles set forth in that ordinance;

- b. A recreational vehicle park shall be served by community water and sewer systems and constructed to specifications acceptable to the Town of Estancia;
 - c. Minimum park size shall be one acre;
 - d. The site shall be graded, drained, and free of rubbish and litter;
 - e. The site shall have a wall, fence, or planted area six feet in height that screens the site from adjoining areas;
 - f. The maximum density shall be 15 recreational vehicles per acre;
 - g. Each recreational vehicle shall be situated on a space that is no less than 1,650 square feet;
 - h. At least one off-street parking space per vehicle (other than the recreational vehicle) will be required;
 - i. No recreational vehicle shall be located within 15 feet of any other. Each recreational vehicle shall be at least 25 feet from the right-of-way line of any street and at least 15 feet from any property line of the recreational vehicle park;
 - j. A recreational vehicle park shall have at least one entrance drive from a public road or street, and access to individual sites shall be from private drives within the recreational vehicle park. Private driveways shall be no less than 30 feet in width.
14. School or day care facility for children.
15. Self-storage mini-warehouses, provided that:
- a. All storage space is within completely enclosed single-story buildings not to exceed 12 feet in height;
 - b. A perimeter wall or fence at least six feet high shall enclose the entire area containing the storage buildings in order to provide controlled access to the premises;
 - c. The site shall not exceed two acres in size; and
 - d. There shall be adequate on-site driveways to accommodate vehicular access to individual storage units.

SECTION 15. OFF-STREET PARKING.

- A. Off-Street Parking Requirements. Whenever any new building or structure is erected, off-street parking spaces shall be provided on the premises in accordance with this Ordinance. Existing buildings or structures need to supply the required off-street parking spaces only to the extent that open space is available on the premises. Parking spaces may be located on any portion of the lot but shall not obstruct on-site circulation or access to the premises. Unless authorized by the Town of Estancia, parking is not allowed within the public right-of-way.
- B. Required Parking Spaces. The minimum number of off-street parking spaces to be provided on premises shall be as follows:
1. Banks, offices, service establishments, and retail businesses require one space per 300 square feet of floor area;
 2. Bowling alleys require four spaces per alley;
 3. Clubs, lodges, and fraternal organizations require one space per 200 square feet of floor area;
 4. Eating and drinking establishments require one space per 100 square feet of floor area;
 5. Industrial, manufacturing, and wholesaling establishments require one space per two employees on the largest shift;
 6. Laundromats require one space per three washing machines;
 7. Medical clinics and dental offices require five spaces per doctor;
 8. Motels and other lodging facilities require one space per unit and one space per two employees on the largest shift;
 9. Places of public assembly, including churches, community centers, theaters, and gymnasiums, require one space per four seats when fully occupied; and
 10. Residential buildings and manufactured homes require two spaces per dwelling unit.
- C. Mixed Uses. For mixed uses on the premises, the total requirements for off-street parking shall be the sum of the fractional requirements of the various uses computed separately.
- D. Parking Design Standards. The following standards shall be applied to the required off-street parking areas:

1. All parking areas must have access to a public right-of-way.
2. All driveway entrances shall be at least 30 feet wide to facilitate vehicular turning into the parking area; and
3. Each parking space shall consist of an area not less than nine feet by 20 feet.]

SECTION 16. ADMINISTRATION.

- A. Administrative Official. A Zoning Officer shall be appointed by the Mayor, with the advice and consent of the Town Board, to administer the provisions of this Ordinance. The Zoning Officer may also serve in some other capacity as an employee or appointed official of the Town of Estancia.
- B. Inspection. The Zoning Officer has the authority to conduct an inspection of buildings, structures, and the use of land to determine compliance with this Ordinance. This provision does not grant right of entry without due process, if necessary. The Zoning Officer shall provide for on-site inspections and provide other relevant information which may be requested by the Town Board or the Planning Commission as necessary to carry out the purpose of this Ordinance.
- C. Violations: Complaints and Notifications. The Zoning Officer may institute any appropriate actions or proceedings whenever there is probable cause to believe there is a violation of this Ordinance. Any person aggrieved by an apparent violation of this Ordinance shall file a written complaint with the Zoning Officer, who shall immediately investigate the complaint to determine if a violation of this Ordinance exists. Whenever the Zoning Officer finds probable cause to believe that a violation of this Ordinance exists, whether acting on independent initiative or in response to a complaint, the Zoning Officer shall notify the person responsible for the alleged violation in writing. The notification shall order the necessary correction to be made within 30 days following the date of notification. Any person who fails to comply with the notification order shall be subject to penalties as stated in this Ordinance.
- D. Information and Records. The Zoning Officer shall maintain an office to supply the public with information concerning this Ordinance and shall maintain the official Estancia zoning maps in an updated form. A “Zoning Action File” shall be maintained and shall contain records which include the following categories:
 1. Amendments to the Zoning Ordinance and Maps;
 2. Development Permit Applications (with Elevation Certificates as appropriate);
 3. Conditional Use Permits;
 4. Manufactured Home Installations;

5. Nonconformance Certificates;
6. Site Development Plans;
7. Variances allowed under this Ordinance;
8. Zoning Appeals; and
9. Zoning Violations.

SECTION 17. ANNEXATION.

- A. Annexation and the zoning of land annexed to the Town of Estancia are initiated by application to the Planning Commission.
- B. Requests for annexation shall first be reviewed by the Planning Commission to examine the request for conformance with town policy and to determine the appropriate zoning for the territory proposed to be annexed. The Planning Commission shall hold a public hearing on the request. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the town at least 15 days prior to the hearing. Notice of the public hearing shall be mailed by first class mail to the owners of land within 100 feet, excluding public right-of-way, of the area proposed for annexation. If any notice by first class mail is returned undeliverable, the Town shall attempt to discover the owner's most recent address and notify said owner. Such notices shall be mailed at least 15 days prior to the date of the hearing.
- C. The Board of Trustees shall hold a public hearing, at which time the Board shall receive the recommendations from the Planning Commission on the annexation and determination of the appropriate zone(s). Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the town at least 15 days prior to the hearing.
- D. After the hearing conducted by the Board of Trustees, the Board shall determine whether to annex the subject property. If the annexation is approved, the Board shall, by ordinance, designate permanent zones for the annexed territory.

SECTION 18. DEVELOPMENT REVIEW.

- A. Requirement for Local Review. For the purpose of this Ordinance, no building or structure shall be erected nor manufactured home installed upon any premises within the Town of Estancia without being reviewed by the Zoning Officer. Development permit applications shall be submitted to the Zoning Officer for review and signature before applying for a state building permit. Manufactured home installation permits shall be reported to the Zoning Officer upon issuance to the manufactured home owner.

Elevation Certificates are required for all structures built or placed in designated flood plains within the Town.

- B. Review Process and Fee. An administrative fee must be paid to the Town of Estancia prior to any consideration in the development review. The Zoning Officer shall determine if a variance, zone change, or conditional use permit is indicated, and if so, will notify and advise the appropriate person of subsequent procedures required by this Ordinance. The Zoning Officer shall also review development proposals for compliance with the National Flood Insurance Program.

SECTION 19. NONCONFORMANCE CERTIFICATE.

- A. Definition. Within the zone districts established by this Ordinance, or subsequent amendments hereto, there exist lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or subsequent amendment. Such lots, structures, or uses are nonconformities. It is the intent of this Ordinance to allow these nonconformities to continue until they are removed, but not to encourage their survival.
- B. Nonconformance Certificate. Nonconformities, upon discovery, shall be issued a Nonconformance Certificate by the Zoning Officer in accordance with the procedures established in this Ordinance. Upon receipt of a written notification from the Zoning Officer, it shall be the responsibility of owners of nonconforming property to apply to the Zoning Officer for a Nonconformance Certificate within 60 days after the date of notification. Failure to accept the Nonconformance Certificate under the provisions of this Ordinance shall be considered a violation of this Ordinance.
- C. Transferability. A nonconformity existing at the time this Ordinance or any amendment thereto takes effect may be continued under the Nonconformance Certificate. The authority to continue a nonconforming use is transferable to the successors and assigns of the owner.
- D. Expansion. A nonconformity shall not be enlarged, expanded, or extended. However, the addition of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this Ordinance shall not be deemed an extension of the nonconformity.
- E. Abandonment. Whenever a nonconformity has been discontinued or abandoned for a period of one year or more, that nonconformity shall not be re-established, and any future use must be in conformance with the provisions of this Ordinance.
- F. Restoration. If a nonconformity is damaged or destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, then restoration must be for a permitted use.

- G. Nonconforming Lot Size. Any lot of record existing prior to the effective date of this Ordinance which fails to meet the minimum area requirements may be developed or improved provided that setback and other requirements of the lot are in conformance with the provisions of this Ordinance. A Nonconforming Certificate will not be required for nonconforming lots.
- H. Vested Rights. Nothing in this Ordinance shall require any change in plans, construction, or designated use of a building for which a development permit has been issued prior to enactment of this Ordinance, or amendments hereto.

SECTION 20. CONDITIONAL USE PERMIT.

- A. Permit Required. Conditional uses that are established by this Ordinance shall not be allowed except upon the review and approval for a permit issued by the Planning Commission, which shall be guided in making a decision by the criteria set forth in this section.
- B. Application. Any request for a Conditional Use Permit shall be submitted with an administrative fee to the Zoning Officer on a prescribed application form obtainable at the Town offices. The Zoning Officer shall transmit the completed application and any supplementary information to the Planning Commission for review and consideration at its next scheduled meeting. To the extent possible, all contiguous property owners shall be notified of the Planning Commission meeting at which the Conditional Use Permit application will be considered for approval.
- C. Guidelines. A Conditional Use Permit shall not be approved unless satisfactory provisions have been made concerning the following issues, where applicable:
 - 1. Accessibility to the property and proposed structures on the premises, with particular reference to vehicular and pedestrian safety, traffic control, off-street parking, and emergency access in case of fire, flood, or catastrophe;
 - 2. Connections to water and sewer services and other public utilities, with reference to necessary easements and dedications;
 - 3. Stormwater drainage control and flood protection with reference to the National Flood Insurance Program;
 - 4. Solid waste management systems and the potential for hazardous waste;
 - 5. The economic, noise, glare, or odor effects of the conditional use on contiguous properties; and
 - 6. General compatibility with contiguous properties and other properties in the area.

- D. Limitations. Conditional Use Permits issued in accordance with the requirements of this Ordinance shall be considered permanent, with the following exceptions:
1. For any conditional uses that have an exceptional tendency, because of their nature or character, to create an adverse impact on neighboring properties, the Planning Commission may limit the term of the permit to a specified length of time after which the permit shall expire and may be renewed. An application for renewal of the Conditional Use Permit may be submitted and processed in the same manner as the original application.
 2. Where there has been a significant change in the physical extent, operations, or character of a permitted conditional use, the Planning Commission may require a renewal of the original Conditional Use Permit. Significant change shall be determined by the Planning Commission, based on a review of the Conditional Use Permit.
 3. An approved Conditional Use Permit shall become void one year after the date of approval if the rights and privileges granted thereby have not been utilized.
 4. An approved Conditional Use Permit shall become void if, after the use has begun, it ceases on the approved site for a continuous period of one year or more.

SECTION 21. VARIANCES.

- A. Definition. The Planning Commission may approve a Variance from the strict application of area, height, dimension, distance, setback, and off-street parking requirements of this Ordinance. A Variance may be approved in the case of exceptional physical conditions where the strict application of the requirements of this Ordinance would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of land or building.
- B. Application. Any request for a Variance shall be submitted with an administrative fee to the Zoning Officer on a prescribed form obtainable at the Town offices. The Zoning Officer shall transmit the completed application and any supplementary information to the Planning Commission for review and consideration at its next scheduled meeting. To the extent possible, all contiguous property owners shall be notified of the Planning Commission meeting at which the Variance application will be considered.
- C. Requirements. The Planning Commission may impose any necessary requirements in approving a Variance to assure that the Variance:
1. Will cause no significant hazard, annoyance, or inconvenience to the owners or occupants of nearby property; and
 2. Will not significantly change the character of the neighborhood or reduce the value of nearby property.

SECTION 22. AMENDMENTS.

- A. Authority. The Town Board may amend or change any of the regulations, procedures, or zone district boundaries established by this Ordinance.
- B. Application. Any request for an amendment to this Ordinance shall be submitted with an administrative fee to the Zoning Officer on a prescribed application form obtainable at the Town offices. An application may be initiated by the Town acting on behalf of the community at large. The Zoning Officer shall transmit the completed application and any supplementary information to the Planning Commission for review. The Planning Commission shall prepare and transmit a recommendation in writing to the Town Board within seven days after its review of the proposed amendment is completed. To the extent possible, when the amendment includes a zone change, the Town shall notify all contiguous property owners of any land proposed for a zone change of the Planning Commission meeting at which the zone change will be reviewed for recommendation to the Town Board.
- C. Public Hearing. Upon receipt of the written recommendations of the Planning Commission, the Town Board shall call for a public hearing in which to make its decision on an application for amendment to this Ordinance. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the Town at least 15 days prior to the hearing. The Town Board shall conduct the public hearing, at which all parties shall have an opportunity to submit data, views, or arguments, orally or in writing, and to examine witnesses testifying at the hearing. A record of the public hearing shall be kept.
- D. Notification by Mail. Whenever a zone change is proposed, notice of the public hearing shall be mailed by first class mail to the owners of land within the area proposed to be changed by a zoning regulation and within 100 feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation. If any notice by first class mail is returned undeliverable, the Town shall attempt to discover the owner's most recent address and notify said owner.

SECTION 23. APPEALS.

- A. Right of Appeal. Any person aggrieved by a decision of the Zoning Officer or the Planning Commission in carrying out the provisions of this Ordinance may appeal that decision to the Town Board. An appeal must set forth specifically a claim that there was an error or an abuse of discretion, or that a decision was not supported by evidence in the matter.
- B. Application. Any appeal following a decision of the Zoning Officer or the Planning Commission shall be made in writing on prescribed forms obtainable at the Town offices, upon payment of an administrative fee, and submitted to the Zoning Officer. Any appeal not submitted within 30 days after the decision which is the subject of the

appeal shall not be considered by the Town Board. The Zoning Officer shall transmit all papers involved in the proceedings to the Town Board within seven days after the receipt of the appeal application.

- C. Public Hearing. The decision on an appeal shall be made by the Town Board following a public hearing. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the Town at least 15 days prior to the hearing. The Zoning Officer shall notify the applicant, members of the Planning Commission, and others who have expressed an interest, if any, of the hearing date.
- D. Stay of Proceedings. An appeal shall stay all proceedings in the action unless the Zoning Officer certifies that a stay will cause immediate peril to life or property. Upon such certification, the proceedings shall not be stayed except by order of District Court.
- E. Decision. An appeal shall be decided within 60 days of the date of application of the appeal. A majority vote of the members of the Town Board is required to reverse, change, or affirm a decision made by the Zoning Officer or the Planning Commission.

SECTION 24. ADMINISTRATIVE FEES.

- A. Applications. Any applications required by this Ordinance shall be filed on prescribed forms obtainable at the Town offices and shall be accompanied by an administrative fee. Administrative fees shall not be required where the Town of Estancia is the moving party. The purpose of an administrative fee is to cover the processing costs, and shall not be refundable. All fees shall be paid to the Town Clerk at the time of application, and shall be made payable to the Town of Estancia.
- B. Administrative Fees. Administrative fees shall be charged as set forth by Resolution of the Town Board.

SECTION 25. PENALTIES.

Any person violating any of the provisions of this Ordinance shall upon conviction be subject to a fine not exceeding \$500 or imprisonment for a period not exceeding 90 days, or both such fine and imprisonment, as authorized in 3-17-1.C. NMSA 1978. Any violation continued for a period of 30 days after conviction shall be prosecuted and treated as a separate offense.

SECTION 26. SEVERABILITY.

The provisions of this Ordinance shall be deemed to be severable, and should any part of this Ordinance be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance other than the part so declared to be unconstitutional or invalid.

SECTION 27. EFFECTIVE DATE.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2006.

This ordinance shall become effective on the _____ day of _____, 2006.

/s/ _____
Mayor, Town of Estancia

(S E A L)

ATTEST:

/s/ _____
Town Clerk