

COMPREHENSIVE ZONING ORDINANCE

for the

TOWN OF BERNALILLO

SANDOVAL COUNTY, NEW MEXICO

Adopted by the Board of Trustees

of the

Town of Bernalillo

April 23, 2001

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Prepared by:

MID-REGION COUNCIL OF GOVERNMENTS OF NEW MEXICO

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ORDINANCE NO. 175

AN ORDINANCE ADOPTING COMPREHENSIVE ZONING REGULATIONS AND A ZONING MAP FOR THE TOWN OF BERNALILLO, NEW MEXICO; AND REPEALING ORDINANCE NO. 101.

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

SECTION 1. TITLE.

These regulations shall be known as the "COMPREHENSIVE ZONING ORDINANCE" Of the Town of Bernalillo, New Mexico, and shall be referred to herein as "this Ordinance."

SECTION 2. PURPOSE.

It is intended by this Ordinance to promote the general health, safety, morals, convenience, and welfare of the people within the Town of Bernalillo zoning jurisdiction. These regulations are required to provide adequate space for light and air; to avoid undue concentration of population; to secure safety from fire, panic, and other dangers; to control congestion in the streets and public ways; to control and abate the unsightly use of buildings or land; to facilitate provisions for community services and public requirements; to encourage the most appropriate use of land; to preserve cultural and historic properties; and to conserve and stabilize the value of property.

SECTION 3. INTERPRETATION AND CONFLICT.

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, abrogate, or annul any easement, covenant, or other valid ordinance except that which is described by the Repeal Section of this Ordinance. Where this Ordinance imposes a greater restriction than is required by existing regulations, easements, covenants, agreements, or ordinances, the provisions of this Ordinance shall control. Regardless of any other provision of this Ordinance, no land shall be used and no structure erected or maintained in violation of any State or Federal pollution control or environmental protection law or regulation.

SECTION 4. DEFINITIONS.

Words used in the present tense include the future tense. The singular number includes the plural and plural the singular. The following definitions apply:

ACCESSORY BUILDING OR STRUCTURE: A building detached from and subordinate to main building and located on the same lot or parcel of land with the main building, the use of which is appropriate, subordinate, and customarily incidental to that of the main building or main use of the land.

ALLEY: A public thoroughfare which affords only a secondary means of access to abutting property.

APARTMENTS: A building arranged, intended, or designed to be occupied by two or more families living independently of each other and having separate cooking facilities in each dwelling unit.

BOARDING HOUSE: (Boarding or Lodging House) A dwelling containing at least one but not more than five guest rooms where lodging is provided with or without meals for compensation. This definition includes a “Bed and Breakfast” enterprise.

BUILDING: A structure built, maintained or intended to be used for the shelter or enclosure of people, animals, property, or business activity. Temporary structures such as tents are not buildings. Mobile homes are defined as buildings for zoning purposes.

BUILDING HEIGHT: The vertical distance from the grade to the highest point of a roof.

BUILDING MAIN: The building occupied by the primary use of the lot on which the building is located.

CARPORT: A structure not completely enclosed by walls and used to shelter automobiles or other vehicles.

CENTERLINE: The line halfway between the street right-of-way lines.

CLERK: The Town Clerk of the Town of Bernalillo.

CLINIC: An establishment occupied by one or more members of the medical profession for the purpose of providing medical services.

CLUB: Any membership organization catering exclusively to members and their guests and whose facilities are limited to meeting, eating and/or recreational uses, and further whose activities are not conducted for monetary gain; including but not limited to civic, fraternal, charitable, religious, social and patriotic organizations.

COMMISSION: The Planning and Zoning Commission of the Town of Bernalillo.

COURTYARD: An open space that is more than half surrounded by a single building or buildings.

DISTRICT: Any section of the Town of Bernalillo where regulations governing the use of buildings and premises, the height and area of buildings, and lot size are uniform.

DUPLEX: A type of apartment building arranged, intended or designed to be occupied by two families living independently of each other and having separate cooking facilities in each dwelling unit.

DWELLING: A building used entirely for residential purposes.

DWELLING, MULTIPLE-FAMILY: A building arranged or designed to be occupied by two or more families living independently of each other and having separate cooking facilities in each dwelling unit.

DWELLING, SINGLE-FAMILY: A building arranged or designed to be occupied by one family (without more than two lodgers or boarders), the structure having only one dwelling unit, but not including a mobile home.

DWELLING UNIT: One or more rooms and a single kitchen designed as a unit for occupancy by one family for living and sleeping purposes, but not including a recreational vehicle, travel trailer, or converted bus. A dwelling unit may be a mobile home, modular unit, manufactured housing, site-built house, or an independent unit of an apartment, townhouse, or other such multiple-unit residential structure.

FAMILY: An individual or two or more persons related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage, living together in a dwelling unit.

FILING STATION: Any building and premises used principally for the storing, dispensing, sale or offering for retail sale of gasoline, oil and/or fuels.

FLOOR AREA: The area included within the surrounding walls of a building, measured in square feet from the outside surface of outside walls, excluding courtyards.

FLOOR AREA, GROSS: For the purpose of this Ordinance, the sum of all the floor areas of a building or buildings, measured from the exterior of the supporting walls or supporting devices, including all accessory buildings on the same lot.

FRONTAGE: The distance along a street right-of-way line from one intersecting street to another or from one intersecting street to the end of a dead end street. Lot frontage

is the width of a lot measured along a street right-of-way.

GALLERY: A room or rooms for the exhibition and/or sale of works of art.

GARAGE APARTMENT: A secondary dwelling unit erected above a garage, adjacent to a garage or converted from a garage.

GARAGE, COMMERCIAL: Any building or structure where automobiles, trucks, tractors, or other vehicles are stored, painted, repaired or equipped for a charge, and where the service and sale of gasoline and oil may be incidental to the principal building use.

GARAGE, PRIVATE: Any accessory building or portion of a building used for the primary purpose of housing vehicles which are owned and used by the occupants of the main building.

GOLF COURSE OR CLUB: Nine or eighteen hole course, which may or may not be associated with a club house, but not including miniature courses or golf driving range.

GRADE: The average of the finished ground level at the center of all walls of a building or the points of support for a structure.

HOME OCCUPATION: An occupation conducted in a dwelling unit provided that:

1. No person other than members of the family residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation, nor more than 600 square feet of an accessory building.
3. There shall be no visible evidence of the conduct of such home occupation other than one sign, not exceeding five square feet in area and non-illuminated.
4. There shall be no sales in connection with such home occupation that would Disrupt the residential nature of the district.
5. No traffic shall be generated by such home occupation in greater volumes that would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
6. No equipment or process shall be used in such home occupation which creates

Noise, vibration, glare, fumes, odors, or electrical interference detectable to normal senses off the lot if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in a multiple-family dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in radio or television receivers off the premises, or causes fluctuation in line voltage off the premises.

LOT: Any parcel of land platted and placed on record in accordance with laws and ordinances, described by metes and bounds, and having frontage on a public right-of-way, road, or street.

MANUFACTURED HOUSING: A manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six by twenty-four feet and at least eight hundred sixty-four 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 unit's 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.

MAYOR: The Mayor of the Town of Bernalillo, New Mexico, or his duly authorized representative or agent.

MOBILE HOME: A moveable or portable housing structure larger than forty feet in body length, eight feet in width or eleven 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 and other technical codes.

MOBILE HOME PARK: A parcel of land on which space is leased or rented for occupancy by 2 or more mobile homes, and which contains facilities for the use of mobile home occupants. New mobile home parks are prohibited from the Town. Any mobile home parks which existed prior to May 2, 2001, shall be classified as a nonconforming use.

MODULAR OR PREFABRICATED HOME: A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure on a permanent foundation; the term applies to major assemblies designed to be permanently affixed to real property in conformance with the local building code, and does not include prefabricated sub-elements such as panels, trusses, or plumbing trees which are to be incorporated into a structure at a building site.

NONCONFORMING USES, LOTS, or STRUCTURES: Any building, structure or portion thereof, or use of any building or land which does not conform to the regulations of this Ordinance and which existed on the effective date of the regulations to which it does not conform.

OFFICE BUILDING: A building designed for or used as the offices of professional, commercial, industrial, religious, public or semi-public persons or organizations.

OVERLAY ZONE: A zone district placed over any other zone district such that special zoning requirements are imposed in addition to those of the underlying zone district. Development within the overlay district must conform to the requirements of both zoning districts or the more restrictive of the two.

PARK: An open space reserved in the public domain upon which no development may take place and which is intended primarily for passive activity.

PARK, RECREATIONAL: An area developed and maintained primarily for active recreation.

PARKING AREA, PRIVATE: An open off-street area of land used for the parking of more than five (5) motor vehicles used by occupants including employees of a building to which such area is appurtenant.

PARKING SPACE: An area on a lot sufficient in size to store one automobile (not less than nine feet wide and 20 feet long) connected to a public street or alley by a driveway not less than twenty feet wide and so arranged as to permit ingress and egress of the automobile at all times without moving any other automobile parked adjacent to the parking space.

PATIO HOME: A dwelling containing an inner courtyard which is open to the sky and considered as a structural component of the building for purposes of this Ordinance.

PICKUP CAMPER: A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel and recreation use.

PREMISES: Land together with any buildings or structures occupying it.

PUBLIC UTILITY: An office, pumping station, communication center, distribution or transfer facility, or other management or operational need for electricity, communication, gas, water, transportation, and sewerage, but exclusive of production or disposal plants, storage yard or supply base, unless otherwise provided for by this Ordinance.

ROADWAY: That portion of a public right-of-way or private way or thoroughfare which is

primarily devoted to vehicular use. This definition shall not apply to private access driveways.

SETBACK: The required distance between every building or structure and a boundary line of the lot upon which is located. Setbacks shall consist of a open space, unoccupied and unobstructed by any part of a building or structure, except as otherwise provided in this Ordinance.

SETBACK, FRONT: The minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, bordering on a roadway. No more than one front setback shall be designated on corner lots or double frontage lots.

SETBACK, REAR: The minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, which is opposite and most distant from a roadway and does not intersect with a roadway. On double frontage lots, the rear setback shall be designated on the opposite side of the lot from the designated front setback.

SETBACK, SIDE: The minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, which intersects a roadway. On corner lots, a side setback shall be designated along the lot line bordering a roadway that is not designated as the front setback.

SIGN: A structure or device designated or intended to convey information to the public in Written or pictorial form.

SIGN AREA: The total area that will contain the entire sign excluding architectural embellishments and supports on neither of which there is displayed any advertising material nor any lighting.

SIGN, FREE STANDING: A sign attached to or supported from the ground and not attached to a building.

SIGN, WALL: A sign flush to the exterior surface of a building, whether applied directly on the building or a signboard attached flush to the building.

STUDIO: The working space of a painter, sculptor, or other artist, limited to the production and sale of the works of said painter, sculptor or other artist and to one occupational employee.

STREET: A thoroughfare which has been dedicated to the public or which has been made public by right-of-use and which affords the principal means of access to abutting property.

STRUCTURE: Anything constructed or erected which requires location on the ground or is attached to something having a location on the ground, but not including a tent or vehicle.

STRUCTURAL ALTERATION: Any change in the supporting members of the building, such as bearing walls, or partitions, columns, beams, or girders, or any substantial change in the roof or exterior walls.

SWIMMING POOL (PRIVATE): A swimming pool to which admission is limited by ownership or membership.

SWIMMING POOL (PUBLIC): A swimming pool to which admission may be gained by the general public with or without payment of a fee.

TOWN: Town of Bernalillo, New Mexico

TOWNHOUSE: A dwelling consisting of a group of two to four attached dwelling units divided from each other by common walls, each dwelling unit situated on separate lots, and each dwelling unit having a separate entrance at ground level.

TRACT: A parcel of land or a group of contiguous parcels of land under one ownership on the effective date of this Ordinance.

TRAVEL TRAILER OR RECREATIONAL VEHICLE: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, and not permanently connected to utilities.

TRUSTEES: The Board of Trustees, which is the governing body of the Town of Bernalillo. The Board of Trustees is sometimes referred to as the Town Council.

USABLE OPEN SPACE: An area uncovered and open, or covered and open to light and air on at least one of its sides and available to some or all of the occupants of the structure for private or public recreation or leisure time activities; it does not include driveways or parking areas.

VARIANCE: 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 this Ordinance would result in unnecessary hardship. As used in this Ordinance, a variance may be authorized only for area, height, dimension, distance, parking, or setback requirements. Financial gain or loss shall not be the determining factor in deciding a variance.

ZERO LOT LINE DEVELOPMENT: A dwelling whereby the main building is situated on a lot such that the building line or a common wall between attached dwelling units is along a property line; and may include detached single-family dwellings, patio homes, and townhouses.

SECTION 5. APPLICATION OF ZONING MAP

- A. Official map: The boundaries of zone districts are shown on the official zone map entitled "Town of Bernalillo Zoning Map," which is hereby adopted and made a part of this Ordinance as if fully described herein. Any use not designated as a permissive or conditional use in a zone district is specifically prohibited in that zone, except as otherwise provided herein.
- B. Boundaries: Zoning boundaries indicated as approximately following right-of-way lines of streets, alleys, municipal limits, railroads, irrigation or drainage ways shall be construed as following such lines.
- C. Vacations: Zoning along frontage of a public right-of-way shall automatically extend to the center line upon vacation from public use of said right-of-way.
- D. Zone Change: An application for change of zone of unplatted land must be accomplished by a plat delineating the boundaries of each tract requested to be rezoned.
- E. Interpretation: Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered above, the Commission shall interpret the district zone boundaries.
- F. Multiple-Zoned Lots: Circumstances may justify the need to designate more than one zone on a single lot. In such cases, zone boundaries within a multiple-zoned lot shall be more fully described in the Zoning Map by showing any necessary dimensions of zones in relation to existing property lines.
- G. Annexation: Appropriate zoning for all lands annexed to the Town shall be designated by the Trustees following a review and recommendation made by the commission. Zoning within annexed areas shall be consistent with development policies of the Town.

SECTION 6. ESTABLISHMENT OF ZONE DISTRICTS.

The area within the zoning jurisdiction of the Town of Bernalillo is hereby divided into the following zone districts:

- R-R RURAL RESIDENTIAL ZONE
- R-1 SINGLE-FAMILY RESIDENTIAL ZONE
- R-1A MIXED SINGLE-FAMILY RESIDENTIAL ZONE
- R-2 MULTIPLE-FAMILY RESIDENTIAL ZONE
- C-R COMMERCIAL RESIDENTIAL ZONE
- C-1 RETAIL COMMERCIAL ZONE
- M-1 LIGHT INDUSTRIAL ZONE
- S-U SPECIAL USE ZONE

SECTION 7. R-R RURAL RESIDENTIAL ZONE.

The purpose of this zone district is to provide for large lot and low density residential uses that are conducive to a rural atmosphere. Limited agricultural activities are allowed.

A. Permissive Uses:

- a. One single-family dwelling unit per lot, including mobile home, manufactured housing or modular dwelling unit. Within forty-five (45) days of occupancy, each mobile home or manufactured housing shall be skirted.
- b. Incidental structure such as private workshops, storage and/or greenhouse.
- c. The raising of nursery products.
- d. Storage of a boat, camper, trailer, or other recreational vehicle as long as such boat, camper, trailer or vehicle is not used as a dwelling or accessory living quarters and is not connected to utilities. The boat, camper trailer or vehicle may be stored within a rear or side setback, and may not be parked in the street for more than 24-hour period.
- e. The following agricultural activities are allowed provided the lot has an area of at least one-half acre:
 - 1. Home occupation related to the raising of agricultural products and/or animal.
 - 2. Temporary stands for display and sale of agricultural products may be erected for a period of not more than 90 days, provided the number of stands is limited to one for each lot and that the size of the stand does not exceed 400 square feet of floor area.
 - 3. Animals such as cattle, horses, pigs, sheep, and goats provided

That cattle or horses do not exceed one animal for each 10,000 Square feet of open lot area, one sheep or goat for each 4,000 Square feet, or equivalent combination. All livestock and poultry shall be kept in such a manner as not to constitute a nuisance through violation of the following regulations:

- No offensive noise, odor or dust shall be produced.
- Areas devoted to livestock and poultry, including accessory buildings and structures, shall be constructed and maintained to discourage concentration and breeding of insect pests.
- All animals shall be confined within owner's property boundaries.

B. Conditional Uses (Requires Use Permit):

1. Churches, hospitals, schools, and religious and philanthropic institutions provided, however, that such uses shall be located on sites of sufficient size to meet off-street parking requirements of this Ordinance and to provide a setback from all property lines equal to a distance of at least one foot for each foot of building height.
2. Nursery, kindergarten and other private or special schools where the open site area is not less than 40% of total lot area. The area needed to meet front and side setback requirements from the property line is not to be considered as open area.
3. Kennel, Veterinary Hospital.

C. Lot Requirements:

1. Area and Width: Every lot must have an area of not less than 12,000 square feet and a width of not less than 70 feet along the front yard setback line. This minimum lot area assumes the lot is serviced by community utilities. If on-site sewage treatment is used, then the minimum lot shall be one acre.
2. Setback: Front – 20 feet; Side – 5 feet; Rear – 10 feet

D. Off-Street Parking: Refer to Section 15.

E. Signs: Refer to Section 16.

- F. Height Restrictions: No structure shall exceed 35 feet except for flagpoles, antennas, spires, or other accessory objects usually placed above the roof level and not intended for human occupancy. The stockpiling of any material or equipment shall not exceed the height of an allowed fence as regulated in Section 17 of this Ordinance.

SECTION 8. R-1 SINGLE-FAMILY RESIDENTIAL ZONE.

This zone district permits a low density of population in which the principal land use is single-family dwellings.

A. Permissive Uses:

1. One single-family dwelling unit per lot, but not including mobile homes.
2. Accessory buildings or structures, but not to include structures for domestic livestock or fowl.
3. Non-commercial gardens, swimming pools, tennis courts.
4. Storage of a boat, camper, trailer or other recreational vehicle provided such storage meets the requirements set forth in the A-R Zone.
5. Home occupations; see requirements under section (G).

B. Conditional Uses (Requires Use Permit):

1. Churches.
2. Hospitals or clinics.
3. Schools.
4. Day care centers, operated within a structure that has the external appearance of a dwelling.
5. Home occupations, allowable only as a Renewable Conditional Use requiring a 12-month permit.
6. Parks, open space, and public utilities.

C. Lot Requirements:

1. Area and Width: Every lot must have an area of not less than 6,000 square feet and a width of not less than 60 feet along the front setback line. This minimum lot area assumes that the lot is serviced by community utilities. If on-site sewage treatment is used, then lot sizes required by the New Mexico Environment Department shall apply.

D. Off-Street Parking: Refer to Section 15.

E. Signs: Refer to Section 16.

F. Height Restrictions: Same as in the R-R Zone.

G. Home occupation and sign identifying the activity, provided:

1. The activity is clearly incidental and secondary to use of the premises for a dwelling.
2. Only members of the residing family are employed.
3. No personal effects is manufactured, displayed, or sold on the premises, except a small stock of art objects and custom sewing created by a resident of the dwelling is allowed. (Upholstery is not considered custom sewing).
4. All business activities are conducted entirely indoors.
5. No more than 25% of the floor area of the dwelling is devoted to the home occupation. No more than 5% of the floor area of the dwelling is devoted to storing stock in trade.
6. There is no external evidence of the activity, including, but not limited to, the parking of commercial vehicles, inordinate vehicular traffic, outside storage, noise, dust, odors, noxious fumes, or other nuisances emitted from the premises.
7. Health care (including physicians, nursing homes, massage, and the like) shall not be considered a permissive home occupation.
8. One related on-premises sign is permitted, provided:
 - a. It does not exceed one square foot in area.
 - b. It is a non-illuminated wall sign.

SECTION 9. R-1A MIXED SINGLE-FAMILY RESIDENTIAL ZONE.

This zone district provides for a mixture of single-family dwellings, including mobile homes, modular dwellings, and conventional housing units.

A. Permissive Uses:

1. Permissive uses allowed in R-1 Zone.
 2. One mobile home per lot. Prior to receiving Certificate of Occupancy, each mobile home shall be skirted with approved building materials listed under the requirements of the (ICC) International Code Council.
- B. Conditional Uses (Requires Use Permit): Same as in the R-1 Zone.
- C. Lot Requirements: Same as in the R-1 Zone.
- D. Off-Street Parking: Refer to Section 15.
- E. Signs: Refer to Section 16.
- F. Height Restrictions: Same as in the R-R Zone.

SECTION 10. R-2 MULTIPLE-FAMILY RESIDENTIAL ZONE.

This zone district permits a moderate density of population which includes multiple-family dwelling units.

- A. Permissive Uses.
1. Same Permissive Uses as in the R-1 Zone.
 2. Boarding and lodging houses.
 3. Garage apartments.
- B. Conditional Uses (Requires Use Permit):
1. Same Conditional Uses as in the R-1 Zone.
 2. Apartments.
 3. Townhouses and other zero lot line developments utilizing building lines or common walls along property lines.
- C. Lot Requirements:
1. Minimum lot areas and widths:

- A) The minimum lot area for single-family dwelling units and apartments shall be 6,000 square feet, with a minimum width of 60 feet along the front setback line.
- B) The minimum lot size for townhouses and other zero lot line developments shall be 4,000 square feet, with a minimum width of 30 feet along the front setback line of each dwelling unit.
- C) These minimum lot areas assume that the lot is serviced by community utilities. If on-site sewage treatment is used, then lot sizes required by the New Mexico Environment Department shall apply.

2. Setback:

- A) Front – 20 feet; Rear – 10 feet
- B) Side – 5 feet; 10 feet on the street side of corner lots; no required side setback for townhouses or other zero lot line developments.
- C) Townhouse developments shall not exceed 4 attached dwelling units per structure, each divided by common walls and each having a separate entrance at ground level. Townhouse developments comprising groups of attached dwelling units shall maintain a separation of no less than 15 feet between structures.
- D. Off-street Parking: Refer to Section 15.
- E. Signs: Refer to Section 16.
- F. Height Restrictions: Same as in the R-R Zone.

SECTION 11. C-R COMMERCIAL RESIDENTIAL ZONE.

This zone district permits single-family and multiple-family dwellings as well as limited retail commercial activities.

- A. Permissive Uses: Same as in the R-2 Zone.
- B. Conditional Uses (Requires Use Permit):
 - a. Same as in the R-1 Zone.
 - b. Apartments.

- c. Professional and business offices.
 - d. Retail Stores.
 - e. Restaurants.
 - f. Shops: such as repair shops, small Laundromats and dry cleaning establishments, bakeries and confectionaries, and shoe repair shops.
- C. Lot Requirements: Same as in the R-1 Zone.
 - D. Off-Street Parking: Refer to Section 15.
 - E. Signs: Refer to Section 16.
 - F. Height Restrictions: Same as in the R-R Zone.

SECTION 12. C-1 RETAIL COMMERCIAL ZONE.

This zone district allows those commercial and business activities that serve the community on a day-to-day basis.

- A. Permissive Uses:
 - a. Same is in the R-2 Zone.
 - b. Stores for the sale of retail goods and products.
 - c. Repair shops: electrical, radio and television appliances, keys and similar articles.
 - d. Shops: dressmaking, tailoring, laundry, dry cleaning, photo and similar trades.
 - e. New and used car sales.
 - f. Bakeries and confectionery where goods are sold at retail prices.
 - g. Professional and business offices.
- B. Conditional Uses (Requires Use Permit):
 - a. Same as in the R-1 Zone.
 - b. Eating and drinking establishments.
 - c. Grocery markets, convenience food stores.

- d. Banks and theaters.
- e. Lumber yards.
- f. Research and development offices.
- g. Hotels and motels.
- h. Amusement Enterprise, provided all activities are indoor, such as auditoriums, billiard or pool hall, dance halls, theaters, skating rinks, bowling alleys and other indoor recreational uses.
- i. Automobile service stations for retail, not wholesale, consumption
Provided:
 - 1) Lubricating, minor repairs, and associated activities are conducted Within a completely enclosed building.
 - 2) A solid masonry wall at least six feet high is erected between the Activity and any abutting residential zone.
- j. Temporary structures and enclosures necessary for construction of a building and used for storage of equipment and material. Such structure must be removed after the specific construction project is completed and shall not remain on the premises for more than one month after completion. Temporary commercial structures used for seasonal purposes may be erected for a period of not more than 90 days. But, in no case shall the structure or enclosure be present for longer than one week after the ending of the season for which it was intended.
- k. Any other similar use which is compatible with the general nature and intent of this zone district.

C. Lot Requirements:

- 1. Area and width: Every lot in residential use shall have the same minimum area and width requirements as in the R-1 Zone, otherwise no requirements.
- 2. Setback:
 - a. Every lot in residential use shall have the same setback requirements as in the R-1 Zone.

- b. Non-residential: Front – 10 feet; Rear – 10 feet
- c. Non-residential: Side – 10 feet where the site abuts the side or rear of a lot in a residential use or a residential zone, otherwise no requirements.

D. Off-Street Parking: Refer to Section 15.

E. Signs: Refer to Section 16.

F. Height Restrictions: No structure shall exceed 45 feet except for flagpoles, antennas, spires, or other accessory objects usually placed above the roof level and not intended for human occupancy. The stockpiling of any material or equipment shall not exceed the height of an allowed fence as regulated in Section 17 of this Ordinance.

SECTION 13. M-1 LIGHT INDUSTRIAL ZONE.

This zone district will permit heavy commercial and light manufacturing uses which do not endanger the health and safety of the community and which do not create offensive noise, vibration, smoke dust, lint, odors, heat or glare.

A. Permissive Uses: None.

B. Conditional Uses (Requires Use Permit)

1. Wholesale merchandising or storage warehouses.
2. Manufacture or assembly of hardware accessories, ornamental iron products, electrical appliances and sheet metal products.
3. Manufacture or storage of food products, including beverage blending or bottling, bakery products, candy manufacture, dairy products and ice cream, fruit and vegetable processing and canning, packing and processing of meat and poultry products, distilling of beverages, but not slaughtering of poultry or animals.
4. Manufacture of boxes, crates, furniture, baskets, veneer, and other wood products of similar nature.
5. Automobile dismantling yard, provided:
 - a. All activities are conducted in a completely enclosed building or are enclosed by a solid wall or fence at least six feet high.

- b. Inoperative automobile bodies may be stacked to a height that does not exceed the height of the required wall.
- 6. Public utility use or structure necessary for the transmission of commodities or services of a utility company.
- 7. One mobile home for a watchman or caretaker on the premises provided such mobile home is used only for dwelling purposes.
- 8. Any other similar use which is compatible with the general nature and intent of this zone district.

C. Lot Requirements:

- 1. Area and Width: No requirements
- 2. Setback:
 - a) Front – 25 feet; Side – 10 feet; Rear – 15 feet.
 - b) Wherever the site abuts a lot in a residential zone, there shall be a setback of no less than 25 feet.

D. Off-Street Parking: Refer to Section 15.

E. Signs: Refer to Section 16.

G. Height Restrictions: Same as in the C-1 Zone.

SECTION 14. SPECIAL USE ZONE.

This zone district permits only those uses which require special consideration because of their unusual nature, frequency of occurrence, effect on surrounding property or other similar reason. The boundaries of this zone district shall be determined on a case-by-case basis following amendment procedures provided in this Ordinance. Special conditions may be imposed by the Trustees following recommendation by the Commission.

A. Procedures:

- a. An application for a change to S-U zoning must declare the proposed use and must be accompanied by a development plan showing the location and dimensions of the property and all structures to be located thereon.

- b. An ordinance implementing a change on the Zoning Map to S-U must designate the specific use permitted, and any building permits are to be issued only for the specific use and in accordance with the approved development plan. The specific use must be recorded on the Zoning Map.
- c. A certified copy of the approved development plan shall be provided to the applicant, and a second copy shall be kept on file by the Zoning Officer.
- d. In the event that a use authorized as an S-U Zone is permanently discontinued, the S-U Zone may be cancelled and removed from the Zoning Map under the provisions for an amendment to this Ordinance. That area delineated by such discontinued S-U Zone shall be rezoned to the prevailing surrounding zone as determined by the Trustees following recommendation by the Commission.

B. Special Uses:

- a. Amusement park of a permanent character.
- b. Cemetery, including columbarium mausoleum, or crematory, provided the site contains at least 5 acres.
- c. Correction, detention, or penal institution.
- d. Golf Course.
- e. Off-Premise Parking Lots, subject to the following requirements:
 - i. The parking area shall provide spaces for at least ten vehicles.
 - ii. A parking layout plan showing arrangement and dimensions of all parking stalls.
 - iii. Adequate controlled access to a street, alley, or public thoroughfare.
 - iv. Paving, or surface of equivalent performance characteristics.
 - v. Parking spaces shall be appropriately marked to indicate the location of the spaces.
 - vi. The parking area shall be properly drained to prevent runoff of storm water to abutting properties.

- vii. The parking area shall be screened by a solid wall or fence at least six feet high on sides which abut lots in residential use.
 - viii. Adequate security lighting shall be installed but must be shielded to prevent light from shining directly onto residential lots.
 - ix. The parking area shall be in compliance with the Off-Street Parking regulations of this Ordinance.
- f. Office Park or Business Center, subject to the following conditions and requirements:
- i. A group of two or more office or business establishments that are planned, developed, owned, or managed as a unit, related in location, size, and type of establishments to the service area of the unit. The site of the office park or business center may include contiguous properties.
 - ii. An applicant must submit a general development plan for the office park or business center site, including: drawings showing the approximate location and use of proposed buildings; exterior lighting control; general design of pedestrian and vehicular entrance, exit, and circulation; and the general design of parking, loading, and traffic handling facilities and methods.
 - iii. There shall be a maximum floor area of 40,000 square feet in any one building.
 - iv. Maximum building height shall be 45 feet or four stories, whichever is less.
 - v. Setback from property lines in relation to any building on site shall be equal to or greater than the height of the building.
 - vi. A minimum of 10 percent of the office park or business center site shall be landscaped. This 10 percent may include setback areas and off-street parking lot landscaping.
- g. Public facilities, such as Town, State, County, and Federal buildings, structures and facilities.

- h. Shopping centers, provided shopping center development applications are submitted in accordance with the following regulations:
 - i. An applicant must submit a general development plan for the shopping center and shopping center site, including: drawings showing the approximate location and use of proposed buildings; exterior lighting control; general design of pedestrian and vehicular entrance, exit, and circulation; and the general design of parking, loading, and traffic handling facilities and methods.
 - ii. Access to the shopping center is limited to approaches designed according to accepted traffic engineering practice and laid out so as to be an integral part of the parking area and loading facilities. Pick-up points must be designed so that vehicles stopped for this purpose do not create congestion on an abutting public thoroughfare. No loading or unloading is to be conducted on a public thoroughfare.
 - iii. Upon approval, the applicant is responsible for payment of cost for any necessary street channelization improvements to shelter vehicular turning movements in the shopping center site. These responsibilities must be outlined and agreed upon between the applicant and the Town at the time of approval of the general development plan.
- i. Travel trailer court or recreational vehicle campground intended for overnight or short-term use. Maximum length of occupancy shall be 30 days and no individually metered utilities may be provided. 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 facilities. Travel trailer courts or recreational vehicle campgrounds are subject to the following regulations.
 - i. The minimum park size shall be two acres.
 - ii. The site shall be graded, drained, and free of rubbish and litter.
 - iii. The site shall have a wall, fence or planted area six (6) feet in height that screens the site from adjoining areas.
 - iv. An annual business license shall be obtained from the Town before any travel trailer or recreational vehicle campground may be operated.
 - v. No travel trailer or recreational vehicle shall be located within 15 feet of any other. Any travel trailer or 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 court or campground.

- j. University or College.

SECTION 14.1 MAINSTREET OVERLAY ZONE. [Revised 4-11-2005, Ord. No. 202]

The purpose of this Overlay Zone is to promote and protect a special character and human scale of development along South Camino del Pueblo which is designated as the Town of Bernalillo's MainStreet corridor. To the extent possible, historical and cultural elements of the MainStreet corridor shall be preserved and enhanced.

A. General Provisions:

- a. Boundaries: The boundaries and properties of the MainStreet Overlay Zone shall be delineated on the Town of Bernalillo Zoning Map. As a minimum, all land which has frontage along South Camino del Pueblo between the U.S. Highway 550 (formally N.M. Highway 44) intersection and the Avenida Bernalillo intersection shall be included in the MainStreet Overlay Zone.
- b. Overlay Zone Requirements: The MainStreet Overlay Zone shall be administered as an additional zoning district with special requirements, superimposed over existing zoning districts. Any development within the MainStreet Overlay Zone must conform to the requirements of both zoning districts, or the more restrictive of the two districts.
- c. Restoration of Nonconforming Uses: If a nonconforming use existing at the time of adoption of this Section is damaged or destroyed to any extent, and by any means other than the willful act of the property owner, then the nonconforming use may be fully repaired and/or restored to its pre-damaged condition. Otherwise, restoration shall be in conformance with Section 18.E of this Ordinance.
- d. Design Requirements: Statement of character: Bernalillo MainStreet, Camino del Pueblo, is the gathering place of the community. Important civic functions and public festivals, as well as daily business activities, occur along this street. Most of the buildings stand close to the street with a pedestrian walkway for frontage. The local residents prefer a small town atmosphere of low profile, human scale structures facing the street. Park-and-walk is the typical means of access to MainStreet establishments. Streetside landscaping and pedestrian amenities are desirable. Development in the MainStreet corridor should reflect the historical tradition, local culture, and individuality in the Town.

- e. Design guidelines: The Town of Bernalillo **MainStreet Design Guidelines** is provided as a supplemental document adopted by reference to this Ordinance. The **MainStreet Design Guidelines** is available upon request from the Zoning Officer. For purposes of administering the MainStreet Overlay Zone, the following elements are included in the **MainStreet Design Guidelines** with special requirements and regulations pertaining to future development:
 - i. Setback requirements,
 - ii. Building massing,
 - iii. Building heights,
 - iv. Parking requirements,
 - v. Accessory structures,
 - vi. Walls and fences,
 - vii. Streetside and parking lot landscaping,
 - viii. Porches, portales, and awnings,
 - ix. Building materials,
 - x. Doors, windows and other openings on street face walls,
 - xi. Architectural features of buildings,
 - xii. Installation of security bars, and
 - xiii. Sign requirements.

- f. Prohibited activities: In order to maintain the special character of the MainStreet corridor, and to avoid development that would detract from that special character, the following activities are prohibited:
 - i. Storage sheds or self storage mini-warehouses, and
 - ii. Mobile homes and manufactured housing, including sales, rental, service, repair and storage.

B. Review Process:

- a. All new development, redevelopment, demolition, or substantial change in appearance to property within the MainStreet Overlay Zone shall be carried out in accordance with a site development plan approved by the Planning Commission. A substantial change in appearance includes exterior alterations, renovations, and additions to existing structures. Demolition refers to the complete removal of a structure located within the MainStreet Overlay Zone. A site development plan shall include:
 - i. A plot plan showing the location, dimensions, height, and setback of all existing and any proposed buildings and structures on the development site,
 - ii. Location and description of all existing and any proposed signs, exterior lighting, parking and loading areas, traffic access and circulation routes, and pedestrian areas,
 - iii. Preliminary sketch drawings or elevations of any proposed buildings or structures, and
 - iv. A landscaping plan showing location and type of street trees and other proposed and existing vegetation, with irrigation systems, on the development site.

- b. Plan Review and Approval: In order for the Planning Commission to review and grant approval for any new development, redevelopment, demolition, or substantial change in appearance to properties within the MainStreet Overlay Zone, the following process applies:
 - i. All owners of property within the MainStreet Overlay Zone shall be notified by letter from the Zoning Officer that their properties are subject to the requirements and regulations of the MainStreet Overlay Zone. A copy of the relevant sections of this Ordinance and the **MainStreet Design Guidelines** shall be attached to the letter of notification.
 - ii. Any building permit applications submitted to the Zoning Officer for proposed development within the MainStreet Overlay Zone shall be reviewed to determine compliance with the requirements of this Section. The building permit application must be accompanied by a site development plan as prescribed in this Section.
 - iii. Any improvements which do not require a building permit but which result in a substantial change of appearance or demolition to properties within the MainStreet Overlay Zone shall be made in accordance with the requirements of this Section. A written or graphic description of the

proposed improvement project or demolition must be submitted to the Zoning Officer prior to the start of any on-site activity. The Zoning Officer shall have the discretion to require or not require a site development plan if necessary to determine compliance with this Section.

- iv. Ordinary maintenance and repair where the purpose of the work is to correct deterioration to the structure and restore it to its condition prior to deterioration will not require a site development plan.
- v. Demolition shall only be permitted if it is determined by the Planning Commission that the property is incapable of producing a reasonable economic return under current conditions and that no means of preserving the structure has been found.
- vi. Review and approval of any new development, redevelopment, demolition, or substantial change in appearance to properties within the MainStreet Overlay Zone shall be conducted by the Planning Commission, and shall be made to determine compliance with the intent and provisions of the MainStreet Overlay Zone.
- vii. Within 30 days after receiving the site development plan or written description of a proposed improvement or demolition, the Planning Commission shall approve or disapprove the proposed project, and shall transmit a written report of the review and decision to the property owner. Appeal of any decision by the Planning Commission shall be made to the Trustees in accordance with the provisions established by this Ordinance.

SECTION 15. OFF-STREET PARKING REQUIREMENTS.

- A. Requirements: There shall be provided on site, when any new building or structure is erected, off-street parking spaces as set forth in this Section. Existing buildings or structures need supply such parking only to the extent ground space is available. Parking may be located on any portion of the parcel but shall not obstruct public right-of-way.
- B. Required Parking Spaces:
 - a. Single-family dwelling: Two parking spaces per dwelling unit.
 - b. Multiple-family dwelling: 1 ½ parking spaces per dwelling unit.

- c. Mobile home: Two parking spaces per dwelling unit.
- d. Hotels and motels: One space for each unit; one space for each 2 employees, and appropriate space for any accessory use, such as a restaurant.
- e. Hospital, clinic or convalescent or nursing home: One space for each two beds and one space for each employee.
- f. Medical or dental office: Five space for each doctor.
- g. Places of public assembly, including churches, community centers, auditoriums, theaters, gymnasiums, arenas, and mortuaries: One space for each four seats.
- h. Club, lodge or fraternal organization: One space for each 150 square feet or floor area.
- i. Dance hall, skating rink: One space for each 100 square feet of gross floor area.
- j. Office, professional, retail businesses, and public buildings: One space for each 250 square feet of gross floor area.
- k. Restaurant, bar: One space for each four seats.
- l. Bowling alley: Two spaces per alley.
- m. Industrial, manufacturing, and wholesale establishments: One space for each two employees on the largest shift.
- n. Shopping centers: 5 spaces per 1000 square feet of gross floor area.
- o. Mixed Uses: For mixed uses, the total requirements for off-street parking spaces shall be the sum of the fractional requirements of the various uses computed separately.

C. Design Standards:

- a. All facilities must provide appropriate access to a street, alley, or public thoroughfare.

- b. All driveways shall be of sufficient width to permit access into spaces, but in no case less than twenty feet wide.
 - c. Each parking space shall consist of an area of not less than nine feet in width by twenty feet in length exclusive of driveway area.
 - d. On any non-residential premises, sufficient spaces shall be set aside for the handicapped or physically disabled. Spaces for the handicapped shall consist of an area not less than twelve feet in width by twenty feet in length exclusive of driveway area. Parking spaces for the handicapped shall be prominently marked for use by the international symbol for handicapped access. The number of spaces shall be determined as follows:
 - i. One handicapped space for lots with ten or less parking spaces.
 - ii. Two handicapped spaces for lots with 11 or 25 parking spaces.
 - iii. Three handicapped spaces for lots with 26 to 40 parking spaces.
 - iv. One additional handicapped space for every fifteen parking spaces over 40 parking spaces.
- D. Off-Street Loading Requirements: Any structures built or substantially altered after the effective date of this Ordinance and which receive or distribute bulk materials by motor vehicle shall provide and maintain off-street loading space as approved by the Commission. Minimum off-street loading space shall be at least 50 feet long and 12 feet wide, and shall not be located on the designated parking space or public right-of-way.
- E. Inoperative vehicles not parked within a building must be removed within 25 days upon notification by the Zoning Officer.

SECTION 16. SIGN REQUIREMENTS.

- A. Requirements: No new sign may be erected unless such sign conforms to the following schedule of zone districts and classification of signs which are permitted:

DISTRICTS	USES	SIGN TYPE PERMITTED
R-R	Rural Residential	A,B,C,E
R-1, R-1A	Single-Family Residential	A,B,D,E
R-2	Multiple-Family Residential	A,B,D,E
C-R	Commercial Residential	B,C,E
C-1	Retail Commercial	B,C,D,E
M-1	Light Industrial	B,C,E

S-U	Special Use	B,C,D,E
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B. Sign Classification:

a. Type A. Identification Signs.

- i. Purpose: to identify premises, occupants of premises or services performed thereon.
- ii. Size: 4 square feet maximum per sign with a minimum width of 1 foot.
- iii. Number: one for each street upon which the property faces.
- iv. Illumination: none, except for identification of house numbers.
- v. Height: no higher from the ground than its distance to the nearest point on the property line but in no case higher than the roof line or parapet wall of the highest building on the premises.

b. Type B. Directional Signs.

- i. Purpose: to direct the flow of traffic in and out of drives, parking areas or buildings.
- ii. Size: 4 square feet maximum per sign.
- iii. Number: two for each premise upon which such sign is necessary, plus 2 for each street or road upon which each premise faces.
- iv. Illumination: indirect only.
- v. Height: no higher from the ground than its distance to the nearest point on the property line, but in no case higher than the roof line or parapet wall of the highest building on the premises; however, in C-1 or M-1 zones a sign may exceed 10 feet the maximum height of the roof line or parapet wall.

C. Type C. Business Signs.

- a. Purpose: to announce the name of a retail, business or service establishment and/or to indicate the type of goods sold or services performed.
- b. Size: 40 square feet per sign (8x5), with a minimum width of 2 feet.
- c. Number: two per premise.
- d. Illumination: indirect, non-flashing; except that direct and/or flashing illumination is permitted where such sign would not reflect or shine directly onto highways or residential areas.
- e. Height: no higher from the ground than its distance to the nearest point on the property line, but in no case higher than the roof line or parapet wall of the highest building on the premises; however, in C-1 or M-1 zones a sign may exceed 10 feet the maximum height of the roof line or parapet wall.

D. Type D. Non-Residential Identification.

- a. Purpose: to announce the name, location, sponsor or occupant of a building or premise, other than a business or dwelling, and including bulletin boards for churches.
- b. Size: sixteen (16) square feet (2x8) maximum per sign with a minimum width of 18 inches.
- c. Number: two signs per each street upon which the premise faces.
- d. Illumination: indirect only.
- e. Height: no higher from the ground than its distance to the nearest point on the property line; but in no case higher than the roof line or parapet wall of the highest building on the premises.

E. Type E. Temporary Signs.

- a. Purpose: to announce the sale or leasing of a property or building; public events to be held; the builder, architect or tenant of a proposed building or property; election campaigns.
- b. Size: 20 square feet (4x5) maximum per sign.
- c. Number: one for each street frontage upon which the property faces, and placed so that only one sign faces each street.

- d. Illumination: none.
 - e. Time limit: 3 months maximum with two renewals each of 2 months duration upon application. Signs relating to a political campaign prior to an election shall not be placed more than 90 days prior to the election and shall be removed within 10 days following the election. Application for a temporary permit shall be made to the Zoning Officer.
 - f. Height: not to exceed one foot for each foot of distance from the nearest property line.
- F. Prohibition of Billboards: All new off-premise advertising signs or billboards shall be prohibited from the Town. Any billboards which existed prior to May 2, 2001, shall be classified as nonconforming structures.
- a. The nonconforming billboard signs shall be allowed to remain but may not be enlarged, expanded, modified, extended or relocated.
 - b. A nonconforming billboard, when destroyed by natural causes, may be reconstructed within the following 30 days to the same dimensions which existed prior to its destruction.
 - c. Whenever a nonconforming billboard has been discontinued as an outdoor advertising device for a period of 60 consecutive days, the Town shall cause the billboard to be removed at the expense of the property owner.
 - d. Structural maintenance of nonconforming billboards shall be continued until the sign is removed by the property owner.

SECTION 17. FENCE REQUIREMENTS.

Fences shall be located in accordance with the following rules:

- A. No fence with a height of more than three feet above the street level shall be placed or maintained in a designated 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 30 feet in distance from the property line intersection.
- B. Except as provided in this Section, fences less than four feet high may be located on any part of a lot.
- C. Except as provided in this Section, fences less than seven feet high may be erected on any part of a lot that is as far back or farther back from a street than a building line.

- D. Any fence over 7 feet in height will require an approval for a Variance, as prescribed by this Ordinance, from the Commission.

SECTION 18. NONCONFORMING USES.

- A. Definition: Within the various districts established by this Ordinance, or amendments that may be later adopted, there exist lots, structures, and uses which were lawful before this Ordinance was passed or amended but which would be prohibited under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to:
 - a. Allow these nonconforming uses to continue until they are removed or sold.
 - b. Insure that the nonconformities shall not be enlarged upon, expanded or extended.
 - c. Not permit the nonconformities to be used as grounds for adding other structures, or uses prohibited elsewhere in the same district.
 - d. Not permit the attachment of additional signs to the building, or the placement of additional signs or display devices on the land outside the building, or permit the addition of other uses, if such additions are of a nature which would be prohibited generally in the district involved.
- B. Certificates: Nonconforming uses shall be issued Certificates of Nonconformance as determined by the Zoning Officer. Upon receipt of written notification from the Zoning Officer, it shall be the responsibility of owners of nonconforming property to apply to the Zoning Officer for a Certificate of Nonconformance within 60 days after the date of notification.
- C. Work in Progress: To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or designated use of any building in which actual and lawful construction had begun prior to the effective date or adoption or amendment of this Ordinance and upon which construction has been diligently carried on.
- D. Expansion: Existing buildings that are in violation of lot area requirements may be remodeled or repaired but may not be reconstructed, expanded or structurally altered unless made to conform to these requirements.
- E. Restoration: If a nonconforming use is damaged or destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, then restoration must be for a permitted use.

SECTION 19. BUILDING PERMITS.

No building or structures shall be erected, improvements constructed, nor mobile home or manufactured housing moved upon any premises within the area regulated by this Ordinance without prior approval of the Zoning Officer or the Commission. Building permit applications and plans shall be submitted to the Zoning Officer for review before applying for a State Building Permit. The application must be accompanied by a fee of \$15.00 payable to the Town of Bernalillo. The Zoning Officer shall determine if a Variance, Zone Change, or Conditional Use Permit is required, and if so, will notify the applicant that a Variance, Conditional Use Permit, or Zone Change may be requested at a scheduled meeting of the Commission, who shall review the request. If a zone change is required, the Commission will make its recommendations to the Trustees. The Trustees will review and approve or disapprove the request at a scheduled public meeting. If no Variance, Conditional Use Permit, or Zone Change is required, the Zoning Officer will approve the building permit application and plans within five working days of the date of their receipt. Otherwise, the application will be returned upon the approval of any necessary Variance, Zone Change, or Conditional Use Permit.

SECTION 20. ADMINISTRATION.

A. Enforcement:

- a. **Administrative Official:** A Zoning Officer shall 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.

- b. **Inspection:** The Zoning Officer has the authority to conduct 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 other relevant information which may be requested by the Trustees or Commission as necessary to carry out the purpose of this Ordinance.

- c. **Administrative Review:** The Commission must review an administrative action of the Zoning Officer when it is alleged that there is an error in a determination made by the Zoning Officer, and may reverse, affirm, or modify the administrative action.

- 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 Zoning map in an updated form. A “Zoning Action File” shall be maintained and shall contain records of the following:

- i. Conditional Use Permits;
- ii. Variances allowed under this Ordinance;
- iii. Application for Amendments;
- iv. Certificates of Nonconformance;
- v. Zoning Appeals;
- vi. Building Permit Applications;
- vii. Zoning Violations.

B. Conditional Use Permits:

- a. Conditions: A Conditional Use Permit may be granted for a specific zone in which it is allowed provided it meets conditions stipulated in this Ordinance.
- b. Application: An application for a Conditional Use Permit shall be submitted to the Commission through the Zoning Officer. Prior to consideration by the Commission, all residents within 100 feet of the concerned lot must be notified by letter of the request. The Commission shall approve or disapprove the application following consideration at one of its regular meetings.

C. Guidelines: In considering an application for a Conditional Use Permit, the Commission shall not grant any Conditional Use Permit unless satisfactory provisions and arrangements have been made concerning the following, where applicable:

- a. Adequate ingress and egress to property and proposed structures thereon, with particular reference to automobile and pedestrian safety and convenience, traffic flow and control, and access in case of fire, flood, or catastrophe;
- b. Off-street parking and loading areas where required, and particular attention to refuse and service areas;
- c. Public and private utilities, with reference to soil limitations, locations, availability, and compatibility;

- d. The economic, noise, glare, or odor effects of the conditional use on adjoining properties; and
 - e. General compatibility with adjacent properties and other properties in the district.
- D. Limitations: Conditional Use Permits issued in accordance with this Ordinance shall be considered permanent, with the following exceptions:
- a. For any conditional uses that have an exceptional tendency, because of their nature or character, to create an adverse impact on neighboring properties, the 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.
 - b. Where there has been a significant change in the physical extent, operations, or character of a permitted conditional use, the Commission may require a renewal of the original Conditional Use Permit. Significant change shall be determined by the Commission, based on a scheduled review of the Conditional Use Permit.
 - c. An approved Conditional Use Permit shall become void one (1) year after the date of approval if the rights and privileges granted thereby have not been utilized.
 - d. An approved Conditional Use Permit shall become void if, after the use has begun, it ceases on the approved site for a continuous period of one (1) year or more.
- C. Variances:
- a. Definition: Variance from the strict application of area, height, dimension, distance, parking, or setback requirements of this Ordinance may be allowed in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical condition 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 his land or building. Practical difficulty or unnecessary hardship cannot be found when financial gain, loss, or monetary savings is the basis for the claim of hardship.
 - b. Request: A request for a Variance shall be submitted to the Commission through the Zoning Officer.

- c. Approval: The Commission shall review and approve or disapprove the Variance request at one of its regular meetings, or at a special hearing if necessary.
- d. Notification: Notice shall be give to owners of property within 100 feet of the property line of the proposed Variance by letter not less than 15 days prior to the hearing.

D. Map or Ordinance Amendments:

- a. Application: Proposed amendments to this Ordinance or the Zoning Map shall be submitted to the Trustees through the Zoning Officer.
- b. Review: Before taking action on a proposed amendment, the Trustees shall refer the proposal to the Commission which shall study the proposal and submit its recommendations to the Trustees within 30 days after receipt thereof.
- c. Public Hearing: The Commission shall hold a public hearing to review any proposed amendment to this Ordinance in accordance with Section 3-21-6, New Mexico Statutes Annotated, 1978.
- d. Decision: The Trustees shall consider the recommendations of the Commission and make a final determination at their regularly scheduled public meeting.
- e. Reversion: Unless the Trustees initiate a zone change based on the Comprehensive Plan for the Town, an approved zone change shall become void

one (1) year after the date of approval if a building permit has not been issued for the proposed development authorized by the zone change. Furthermore, an approved zone change shall become void six months after a building permit has been issued for the proposed development authorized by the zone change if no construction has begun on the premises. An extension of time may be granted to an applicant for a zone change, if justified.

E. Appeals:

- a. Application: Any aggrieved person or persons affected by any action or decision made by the Zoning Officer or the Commission may appeal to the Trustees within 30 days after the date of the action or decision being appealed.

- b. Notification: The Trustees shall give public notice of the time and place of hearing of the appeal and written notice to the appellant and members of the Commission at least 15 days before the date of the hearing. The appeal must be presented within three months after the date of filing.
- c. Stay of Proceedings: An appeal results in a stay of all proceedings in the action unless the Zoning Officer certifies that a stay will cause imminent peril to life or property.
- d. Decision: The Trustees may, by a majority vote of its members, reverse a decision, order, or requirement of the Zoning Officer or the Commission, or authorize the issuance of a Variance or Conditional Use Permit when the permitted use is not contrary to the public interest and where the literal enforcement of this Ordinance will result in an unnecessary hardship and where the spirit of this Ordinance is observed.

SECTION 21. APPLICATION AND FILING FEES.

- A. Applications: Any application for a Conditional Use Permit, Variance, amendment to this Ordinance, or appeal shall be filed on prescribed forms available through the office of the Zoning Officer.
- B. Filing Fees will be charged as follows:
 - a. Conditional Use Permits: \$75.00
 - b. Variance: \$75.00
 - c. Map or Ordinance Amendments: \$125.00
 - d. Appeals: \$100.00
- C. Waiver: Filing fees will be waived for actions initiated by the Town.
- D. Refund: No filing fee will be refunded.

SECTION 22. PENALTIES.

Any person violating any of the provisions of this Ordinance shall upon conviction be subject to a fine not exceeding \$500.00 or imprisonment for a period not exceeding 90 days, or both such

fine and imprisonment, as authorized in Section 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 23. SEVERABILITY.

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

SECTION 24. REPEAL.

Ordinance No. 101 of the Town of Bernalillo is hereby repealed. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any existing violation of said Ordinance No. 101 if the violation is also a violation of the provisions of this Ordinance.

SECTION 25. EFFECTIVE DATE.

This ordinance shall become effective on the 2nd day of May, 2001, following publication as required by law.

PASSED, APPROVED, and SIGNED this 23rd day of April, 2001.

/S/ Charles Aguilar
Charles J. Aguilar, Mayor
Town of Bernalillo

ATTEST:

/S/ Ron Abousleman
_ Ron Abousleman
_ Town Clerk/Manager

[SEAL]

Amendments to the Zoning Code

December 20, 2012-Allowing home occupations to be a permissive use in residential zones.

December 20, 2012-Requiring mobile homes to have skirting prior to receiving Certificate of Occupancy.