EXHIBIT “A”

TOWN OF KIRTLAND ZONING
ORDINANCE NO. 2016-02

- **Section 1. - Establishment of districts: Provision for official zoning map.**

1.

Official zoning map. The Town is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 1 of Ordinance Number 2016-02 of the Town of Kirtland, New Mexico," together with the date of the adoption of this ordinance.

If, in accordance with the provision of this ordinance and Chapter 300, State Statutes, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map by the close of the next working day after the amendment has been approved by the Town Council, with an entry on the Official Zoning Map as follows: "On (date), by official action of the Town Council, the following (change) changes were made in the Official Zoning Map: (brief description of nature of change)," which entry shall be signed by the Mayor and attested by the Town Clerk. No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Section 13.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Town Clerk shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Town.

2.

Replacement of official zoning map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Town Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing the seal of the Town under the following words: "This is to certify that this Official Zoning Map supersedes and

replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. 2016-02 of the Town of Kirtland, New Mexico."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

3.

The following changes are made in the Official Zoning Map of the Town of Kirtland, New Mexico:

(a)

All schools existing on the date of passage of this Ordinance are hereby placed in R-1 Residential District.

(b)

All areas currently zoned "C Commercial District" are hereby rezoned "C-1 Commercial District."

- **Section 2. - Rules for interpretation of district boundaries.**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following Town limits shall be construed as following such Town limits;
4. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
6. 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 by subsections 1 through 5 above, the Town Council shall interpret the district boundaries;
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Town Council may permit, as a special exception, the

extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

- **Section 3. - Application of district regulations.**

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
   a) to exceed the height or bulk;
   b) to accommodate or house a greater number of families;
   c) to occupy a greater percentage of lot area;
   d) to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this ordinance.
3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
4. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.
5. All territory which may hereafter be annexed to the Town shall be zoned at the time of annexation. Zoning shall be in conformance with the district regulations as required by the Town Council.
6. All zones established in this ordinance shall be only for those used [uses] prescribed in the section dealing with said zones, and for such other uses as the Town Council may determine to be similar. When a use is not specifically listed in the sections devoted to "Permitted Accessory Uses and Structures", or "Special Exceptions", it shall be assumed that such uses are hereby expressly prohibited unless a written request to the Town Council is approved by the Council, said recommendations being one which states that said use is similar to and not more objectionable than the uses already listed. Except as provided in

this section no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is specifically permitted in the same zone in which such building or land is located.

- **Section 4. - Non-conforming lots, non-conforming uses of land, non-conforming structures, non-conforming uses of structures and premises, and non-conforming characteristics of use.**

1.

Intent. Within the districts established by this ordinance or amendments that may later be adopted there exist:

(a)

lots,

(b)

structures,

(c)

uses of land and structures, and

(d)

characteristics of use

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 future amendment. It is the intent of this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

2.

Non-conforming lots of record. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must

be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Town Council.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

3.

Where at the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance and where such use involves no individual structure with a replacement cost exceeding one thousand dollars ($1,000.00), the use may be continued for a period not to exceed five (5) years after the effective date of this ordinance, provided:

a)

No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

b)

No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.

c)

If any such non-conforming use of land ceased for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

d)

No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

4.

Non-conforming structures. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

a)

No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;

b)

Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent or [of] more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance;

c)

Should such structure be moved for any reason and for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

5.

Non-conforming uses of structures or of structures and premises in combination. If lawful use involving individual structures with a replacement cost of one thousand dollars ($1,000.00) or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

a)

No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

b)

Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;

c)

If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may as a special exception be changed to another non-conforming use provided that the Town Council, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Town Council may require appropriate conditions and safeguards in accord with the provisions of this ordinance;

d)

Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;

e)

When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three-year period (except when government action impedes access to the premises), the structure or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

f)

Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of

the land. Destruction for the purpose of this subsection is defined as damaged to an extent of more than fifty (50) percent of the replacement cost at time of destruction.

6.

Repairs and maintenance. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

7.

Uses under special exception provisions not non-conforming uses. Any use which is permitted as a special exception in a district under the terms of this ordinance (other than a change through Town Council action from a non-conforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

8.

[*Time limitations.*] Every non-conforming use shall be completely removed or shall be altered in such a manner that it will be in conformity with the uses permitted in the zone in which said non-conforming use is located and every non-conforming building shall be completely removed from the land within the time limit set forth below:

a)

Type I and Type II Buildings (fire resistive) as defined in the Uniform Building Code - Fifty (50) years.

b)

Type III Buildings (heavy timber construction) as defined in the Uniform Building Code - Forty (40) years.

c)

Type IV and Type V (light wood frame and incombustible frame) as defined in the Uniform Building Code - Thirty-five (35) years.

d)

Mobile Homes and Travel Trailers - Fifteen (15) years or, if a change of ownership occurs before that time, said mobile home or travel trailer shall be in compliance with this section by the time the change of ownership occurs.

e)

Signs - 10 years.

Non-conforming uses may be allowed to remain beyond the established amortization period defined in 5—13 [sic] of this section, provided that a petition

requesting such a time extension be signed by a majority of the residents in the area whose properties are within five hundred (500) feet of the external boundaries of the subject use, and that the Town Council, after a public hearing held in conformance with the above petition and its verification, adopts a resolution granting an extension for a specific period of time and with such conditions as may be deemed proper and necessary to protect surrounding properties.

- **Section 5. - Schedule of district regulations.**

Agricultural Zoning District

Permitted principal uses and structures:

1. One single-family, site built structure for one housekeeping unit only; or
2. A multi-section manufactured home or modular home, that is a single-family dwelling constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Act, or the Uniform Building Code, as amended to the date of the units construction, and installed consistent with the Manufactured Housing Act, and with the regulations made pursuant to the permanent foundation systems.
3. No more than two (2) residential units as described above in item 1 and 2 in addition to the primary principle residential unit for the purpose of boarding persons employed on the premises and their family members.
4. Agricultural use, farming, ranching.
5. One stand for display and sale of products raised on the premise, provided that the structure contains no more than four hundred (400) square feet.
6. One (1) unlighted sign advertising the sales of products produced on the property.
7. The grazing, breeding, raising, or training horses, cattle, sheep, goats or other non-exotic animals.
8. Dog kennels or the breeding, boarding or the sale of dogs, cats or fur bearing animal farms.

Permitted accessory uses and structures:

Accessory uses and structure customarily incident to the aforesaid permitted uses, under conditions herein specified, provided that such accessory uses shall not involve in the conduct of any business or industry, or any driveway or walkway giving access thereto.

1. Private garages, storage sheds.
2. Barns.
3. In house, home occupations when conducted by member of the immediate family.
4. Public buildings or uses owned by the Town or any other political subdivision of the State.

Special exceptions:

The following uses are allowed, provided that a special exception (use) has been granted by the Town Council. Before any special exception is granted, it shall be shown that the proposed use will not be detrimental to the public health, safety, welfare or injurious to other property or improvements in the same vicinity;

1. Museums, and libraries.
2. Cemeteries.
3. Public and private schools.
4. Commercial livestock feed yards.
5. The killing or dressing of livestock, poultry, rabbits or any other animal for commercial purpose.
6. Institutions, nursing homes or assisted living centers, for the care of the aged, senile, mentally infirm or physically disabled.
7. Other uses not listed or described within this district.

Prohibited uses and structures:

1. No visible outside storage regarding home occupations not pertaining to the use of the property.
2. No swine, which shall include, without limitation, Vietnamese potbelly pig which is also known as Asian Shar-Pei or Chinese potbelly pig, and may include any other type or variety.

3. No commercial or industrial uses.
4. Single wide manufactured homes.
5. Multi-family residential units.

Minimum tract of land and setback requirements:

1. Each tract of land shall be a minimum of forty three thousand five hundred and sixty (43,560) square feet, one (1) acre, with a minimum front lot line of one hundred (100) feet.
2. Front setbacks shall be a minimum depth of twenty-five (25) feet from backside of sidewalk. Should no sidewalk be available at time of construction, said setback measurements shall start four (4) feet from the edge of existing roadway edge for a total of a minimum of twenty-nine (29) feet.
3. Side setbacks shall be a minimum of ten (10) feet from the property line for residential units.
4. Rear setbacks shall be a minimum of twenty (20) feet from the rear property line.
5. Setbacks for a barn, shed, or other structure for the purpose of raising, breeding or the feeding of poultry, rabbits or livestock, shall be a minimum of fifty (50) feet from all property lines.
6. A minimum of twenty thousand (20,000) square feet of open space land for each horse, cow or other large animal.
7. A minimum of ten thousand (10,000) square feet of open space land for each goat, sheep or other similar sized animal.

All setbacks shall be to include fascia boards, porches, covered patios, any additions to the basic structure of the most furthest projection of the structure. Said side yard setbacks shall be required for all accessory structures, such as garage, carports, storage units etc.

Maximum height of structures:

1. No structure shall exceed two and one-half (2½) stories or thirty-five (35) feet whichever is less.

Off street parking requirements:

1. A minimum of three (3) parking spaces per each residential unit shall be required.

2. As determined and specified in section 6, item 12 of the zoning district regulations.

R-1 Residential Zone

Permitted principal uses and structures:

1. One-family, single, detached dwellings for one housekeeping unit only or;
2. A manufactured housing or modular home, that is a single-family dwelling with a heated area of at least thirty-six by twenty-four (36 × 24) and at least eight hundred sixty-four (864) 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 Act, or the Uniform Building Code, as amended to the date of the units construction, and installed consistent with the Manufactured Housing Act, and with the regulations made pursuant to permanent foundation systems.

Permitted accessory uses and structures:

Accessory uses and structures customarily incident to the aforesaid permitted uses, under conditions herein specified, provided that such accessory uses shall not involve in the conduct of any business or industry, or any driveway or walkway giving access thereto.

1. Private garages.
2. Private storage sheds.
3. In house, home occupations, no outside storage.
4. Public buildings or uses owned by the Town or any other political subdivision of the state and operated for public purposes.
5. Churches.
6. Public Schools.

Prohibited uses and structures:

1. No display of signs referring to home occupations.
2. No visible outside storage regarding home occupations.

3. No livestock.
4. No swine.
5. No domestic fowl.
6. No commercial or industrial uses.
7. No Single wide manufactured homes.

Special Use:

The following uses are allowed, provided that a special use has been granted. Before any special exception is granted, it shall be shown that the proposed use will not be detrimental to the public health, safety, welfare or injurious to other property or improvements in the same vicinity:

1. Museums, and libraries.
2. Cemeteries.
3. Private schools.

Minimum lot and setback requirements:

1. Each lot shall be a minimum of seven thousand (7,000) square feet, with a minimum front lot line of seventy (70) feet.
2. Front setbacks shall be a minimum depth of twenty-five (25) feet from backside of sidewalk. Should no sidewalk be available at time of construction, said setback measurements shall start four (4) feet from the edge of existing roadway, for a total of a minimum of twenty-nine (29) feet.
3. Side setbacks shall be a minimum of five (5) feet from the property line.
4. Rear setbacks shall be a minimum of five (5) feet from the rear property line.

All residential units shall face the addressed street. Any residential unit not facing the street from which it is addressed, a variance shall be obtained prior to any construction.

All setbacks shall be to include fascia boards, porches, covered patios, any additions to the basic structure or the most furthest projection of the structure. Said side yard setbacks shall be required for all accessory structures, such as garages, carports, storage units etc.

Maximum height of structures:

1. No structure shall exceed two and one-half (2½) stories or thirty-five (35) feet whichever is less.

Off-street parking requirements:

1. A minimum of three (3) parking spaces per each residential unit shall be required to be paved, cement or covered with crushed stone or other similar material.

R-2 Residential Zone

Permitted principal uses and structures:

1. One-family, single, detached dwellings for one housekeeping unit only or;
2. A manufactured housing or modular home, that is a single-family dwelling with a heated area of at least thirty-six by twenty-four (36 × 24) and at least eight hundred sixty-four (864) 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 Act, or the Uniform Building Code, as amended to the date of the units construction.
3. Duplex unit constructed to house no more than a two (2) single families.

Permitted accessory uses and structures:

Accessory uses and structures customarily incident to the aforesaid permitted uses, under conditions herein specified, provided that such accessory uses shall not involve in the conduct of any business or industry, or any driveway or walkway giving access thereto.

1. Private garages.
2. Private storage sheds.
3. In house, home occupations, no outside storage.
4. Public buildings or uses owned by the Town or any other political subdivision of the state and operated for public purposes.
5. Churches.
6. Public schools.

Prohibited uses and structures:

1. No display of signs referring to home occupations.
2. No visible outside storage regarding home occupations.
3. No livestock.
4. No swine including domesticated swine (pot belly pigs).
5. No Domestic fowl.
6. No commercial or industrial uses.
7. Single wide manufactured homes.

Special Use:

The following uses are allowed, provided that a special use is granted. Before any special use is granted, it shall be shown that the proposed use will not be detrimental to the public health, safety, welfare or injurious to other property or improvements in the same vicinity:

1. Museums and libraries.
2. Cemeteries.
3. Private schools.

Minimum lot and setback requirements:

1. Each lot for a single family unit shall be a minimum of six thousand (6,000) square feet, with a minimum front lot line of sixty (60) feet.
2. Each lot for a duplex unit shall be a minimum of eight thousand (8,000) square feet with a minimum lot line of eighty (80) feet.
3. Front setbacks shall be a minimum depth of twenty (20) feet from backside of sidewalk. Should no sidewalk be available at time of construction, said setback measurements shall start four (4) feet from the edge of existing roadway, for a total of a minimum of twenty-four (24) feet.
4.

Side setbacks shall be a minimum of five (5) feet from the property line.

5. Rear setbacks shall be a minimum of five (5) feet from the rear property line.

All residential units shall face the addressed street. Any residential unit not facing the street from which it is addressed, a variance shall be obtained prior to any construction.

All setbacks shall be to include fascia boards, porches, covered patios, any additions to the basic structure or the most furthest projection of the structure. Said side yard setbacks shall be required for all accessory structures, such as garages, carports, storage units etc.

Maximum height of structures:

1. No structure shall exceed two and one-half (2½) stories or thirty-five (35) feet whichever is less.

Off street parking requirements:

1. A minimum of three (3) parking spaces per each residential unit shall be required to be cement, paved or covered with crushed stone or other similar material.

Residential-3 (R-3) Zoning District.

Permitted uses and structures:

1. One-Family, single site built home.
2. Two-family units (duplex) with a minimum of seven hundred and fifty (750) square feet of living area each unit.
3. Townhouse units.
4. Apartment buildings, including triplexes and four-plexes with a minimum of five hundred and fifty (550) square feet of living area for each unit.
5. Manufactured homes, mobile homes constructed to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Act, or the Uniform Building Code, as amended to the date of the units construction. Installed consistent with the Manufactured Housing Act.
   (a). Single-wide manufactured home or mobile home shall be a minimum of twelve (12) [feet] wide and a minimum of seven hundred and twenty (720) square feet of living area.
   (b). Multi-section manufactured home, mobile home shall be a minimum of (24 × 36) and a minimum of eight hundred and sixty-four (864) square feet of living area.

6. Public buildings or uses owned by the Town.

Permitted accessory uses and structures:

1. Private garages and or carports.
2. In-home offices, family home occupations, no outside storage.
3. Private storage sheds.
4. Churches.
5. Public Schools.

Prohibited uses and structures:

1. Regarding home offices and home occupations, there will be no display of signs or any products or commodities pertaining to it that is visible from any public street or right-of-way.
2. No outside storage regarding to home occupations.
3. Office buildings.
4. Motels, inns or lodging houses.
5. No swine including domesticated swine (pot belly pigs).

Special Use:

The following uses are allowed in the district provided that a special use has been approved by the Town council. Before any special use shall be granted, it shall be shown that the proposed use is essential or desirable to the public health, safety, or general welfare; that the proposed use or uses will not be detrimental to the public health, safety or welfare, injurious to other properties in the vicinity.

1. Libraries.
2. Cemeteries.
3. Private schools.
4.

Livestock (cow, horse, sheep, goats, etc.) A minimum of twenty thousand (20,000) square feet of open space land for each large animal (cows, horses etc). Ten thousand (10,000) square feet for each small animal (sheep, goats etc.) Excluding houses, storage units or barns.

Minimum lot requirements:

1. Each lot area for a site built home or multi-section manufactured home, mobile home shall be a minimum of six thousand (6,000) square feet with a minimum lot line of seventy (70) feet. A site built home or multi-section manufactured home shall be situated on the lot so the front door, (main entrance) is facing the public street or right-of-way.
2. Each lot area for a single-wide manufactured home, mobile home shall be a minimum of five thousand (5,000) square feet, with a minimum front lot line of fifty (50) feet.
3. Each lot area for townhouses or two-family (duplex) units, shall be a minimum of six thousand (6,000) square feet, with a minimum front lot line of seventy (70) feet.
4. An additional lot area of two thousand (2,000) square feet is required for each accessory building (laundry, recreation rooms etc.)
5. Each manufactured home or mobile home lot, duplex or townhouse units shall have a minimum one storage unit, with a minimum of one hundred and twenty (120) square feet for each family unit.

Minimum yard requirements setbacks:

1. Front yards shall be a minimum depth of fifteen (15) feet. All front yard measurements for front yard setbacks shall be measured from the backside of the sidewalk. Should no sidewalk be available, said measurement shall start four (4) feet from the existing street, making a total of nineteen (19) feet from the existing street line.
2. Rear yards shall be a minimum of ten (10) feet from the property line.
3. Side yards shall be a minimum of five (5) from the property line.

Note:

All setbacks shall include the fascia board, porches, patios, any additions to the basic structure or the most furthest projection of the basic structure. Said setbacks shall also be required for any and all accessory structures, such as garages, carports, permanent storage buildings.

Maximum height requirements:

Buildings or accessory structures may be erected to a maximum height of two and one-half (2½) stories or thirty-five (35) feet whichever is less.

Off-street parking requirements:

1. A minimum of three (3) parking spaces per each family unit which shall be asphalt, concrete or covered with crushed stone or other similar material.

Rural Residential-1 (RR-1) Zoning District

Permitted principal uses and structures:

1. One single-family, site built structure for one housekeeping unit.
2. Multi-section manufactured home or modular home that is a single-family structure constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Act, or the International Building Code or Uniform Building Code, as amended to the date of the units construction, and installed consistent with the Manufactured Housing Act, and with the regulation made pursuant to permanent foundation systems.

Permitted accessory uses and structures:

1. Private garages.
2. Private storage structures.
3. Home occupations with no outside storage.
4. Public buildings or uses owned by the Town or any other political subdivision of the state and operated for public purposes.
5. Churches.
6. Public schools.

Special Use:

1. Cemeteries.
2. Private schools.

Prohibited uses and structures:

1. No display of signs referring to home occupations.
2. No visible outside storage regarding to home occupations.
3. No swine including domesticated swine (pot belly pigs).
4. No commercial or industrial uses.
5. No single wide manufactured homes.

Minimum lot requirements:

1. Minimum lot width: Seventy (70) feet.
2. One-half (½) acre (21,780 square feet) where Town sewer is available; or
3. Three quarters (¾) acre (32,670 square feet) where Town sewer is not available.
4. Ten thousand (10,000) square feet of open space land for each small animal, sheep, goat etc.; and/or
5. Twenty thousand (20,000) square feet of open space for each large animal, cow, horse etc.

Minimum setback requirement:

Front yard: Twenty-five (25) feet.

Side yard: ten (10) feet.

Rear yard: twenty (20) feet.

Maximum height of structures:

1. No structure shall exceed two and one-half stories or thirty-five feet whichever is less.

Off Street Parking:

1. A minimum of three parking spaces which shall be asphalt, concrete or covered with crushed stone or other similar material.

Residential-4 (R-4)

That in each area so designated, the regulations for manufactured housing and mobile home parks (trailer courts) set forth shall apply.

Permitted principal uses and structures:

1. One manufactured home or modular home for one family, provided that the mobile home must comply with all the requirements set forth under "special provisions" this section and be setup within an approved mobile home park.
2. Mobile home parks, provided that they comply with all applicable requirements is Section 6 of the Town's zoning regulations.
3. Private garages.
4. Private storage structures.
5. Public buildings or uses owned by the Town or any other political subdivisions of the state and operated for public purposes.
6. Accessory uses and structures customarily incident to the aforesaid permitted use, under conditions herein specified, provided that such accessory uses shall not involve the any conduct except as otherwise provided for by ordinance.
7. The home occupations, with no outside storage.

Prohibited uses and structures:

1. There will be no display of signs regarding to home occupations.
2. No domestic fowl.
3. No livestock.
4. No swine including domesticated swine (pot belly pigs).

Special provisions:

Any mobile home placed on a lot must comply with the following conditions:

1. Be the only dwelling unit on the lot.
2. Be a minimum of twelve (12) feet wide, with a minimum of 720 square feet.

3. Comply with all construction requirements, be constructed in a factory to the standards of the United States Department of Housing and Urban Development, of the National Manufactured Housing Construction and Safety Act or the Uniform Building Code as amended to the date of the units construction and installed consistent with the Manufactured Housing Act, and all other applicable codes of the Town of Kirtland.
4. Be equipped with a mobile home stand adequate to support the mobile home. Mobile home stands, anchors, and tie-downs shall meet the standards set forth in Mobile Home Act as Amended, Rules and Regulations, New Mexico State Mobile Home Commission, or, if those standards have been superseded meet the current standards in force.
5. Be equipped with appropriate skirting, as determined by the Town staff.
6. Be provided with a minimum of three (3) off-street parking spaces which shall be asphalt, concrete or covered with crushed stone or other similar material.
7. Be connected to the water and sewer systems of the Town of Kirtland, if available. If these systems are not available in the area where the lot is located, private water supply and sewage disposal systems must be provided which comply with all state and local requirements for such systems.
8. Areas underneath mobile homes shall be kept free from debris, insects, rodents, and items of storage.

Definitions:

Mobile home park (trailer court) means a tract of land under single or joint ownership used or offered for use in whole or in part for the placement of four (4) or more manufactured homes for living purposes.

Minimum lot requirements:

Every lot shall have a minimum lot area of five thousand (5,000) square feet for each dwelling unit with a minimum front lot line of fifty feet (50′).

Minimum yard requirements setbacks:

1. Front yards shall be a minimum of fifteen (15) feet. All front yard measurements shall be measured from the backside of the sidewalk. Should no sidewalk be available, said measurement shall start four (4) feet from the existing street right-of-way, making a total of nineteen (19) feet from the existing street line.
2. Side yards shall be provided on every lot along each side lot line, five and one-half (5.5) feet.
3. Rear yards shall be a minimum of ten (10) feet from property line.

NOTE:

All setbacks shall include the fascia board, porches, patios, any additions to the basic structure or the most furthest projection of the basic structure. Said setbacks shall also be required for any accessory structures, such as garages, carports, storage buildings.

Maximum height of structures:

Buildings or structures may be erected to a maximum height of 35 feet, whichever is lesser, with the exceptions noted in Section 6, Item 5, of this ordinance.

Neighborhood Commercial District (NCD)

Principal uses and structures:

1. Professional or semi-professional offices occupations for the conduct of the following: accountant, architect, attorney, engineer, insurance, real estate, or any other office or profession which is the same general character as the foregoing. Excluding, sale of alcoholic beverages, animal grooming, chiropractor offices, dentist offices, dog kennels, funeral homes, physician offices, veterinarian offices, veterinarian hospitals or any business that may be considered high traffic volume.
2. Barber, beauty shops, cosmetologist, hairdresser, with a structure no larger than 1,500 square feet.
3. Cafe, coffee shop within an enclosed a structure no larger than 1,500 square feet.
4. Churches.
5. Day nurseries.
6. Food and dairy markets within an enclosed structure no larger than 1,500 square feet.
7. Libraries.
8. Nursing homes, assisted living centers.
9. Public schools.
10. Permitted principal uses and structures within the Residential 1 district.
11. Public government structures.
12. Swimming pools.

Prohibited uses and structures:

1. Mobile home parks.
2. Travel trailer parks.
3. Industrial uses.

Parking Regulations:

As specified in Section 6, Item 12 of the Zoning District Regulations, also to be asphalt, concrete or covered with crushed stone or other similar material.

Area setback regulations:

1. Front yard: twenty (20) feet.
2. Rear yard: ten (10) feet.
3. Side yard: five (5) feet six (6) inches feet.
4. Where a tract of land in this district, abuts any parcel of land in any other zoning district, a privacy fence or wall no greater than 96 inches shall be installed.

Height and area regulations:

1. Maximum height [thirty-five] (35) feet.
2. Lot coverage by building, driveways, and parking spaces shall be no greater than [seventy] (70) percent of the total lot area.

Non-conformities:

Any non-conforming uses in existence at the time of the adoption of this ordinance, shall be considered a valid non-conforming use until such time of, change of ownership and or 51 percent or more of the estimated appraised value of the property for the replacement of damage, upgrades and or improvements to structure and or property. At that time, all structures and or property shall come into compliance with these regulations. Unless, a special exception has been approved by the Town council.

Community Commercial District (CCD)

Principal uses and structures:

1. Alcoholic beverage sales.

2. Allowances within the Neighborhood Commercial district.
3. Animal grooming salons, animal kennels.
4. Automobile sales, automobile/truck repair shops, automobile/truck gasoline/fueling stations.
5. Banks.
6. Cemeteries, crematories.
7. Chiropractor offices.
8. Dentist offices.
9. Government structures and uses.
10. Hotels, motels.
11. Hospitals.
12. Laundromats, cleaners.
13. Manufactured home sales.
14. Mortuary, funeral homes.
15. Movie theaters.
16. Nightclubs, dance halls.
17. Office buildings.
18. Self storage buildings, self storage yards.
19. Physician offices.
20. Retail stores.
21. Restaurants, café's that may or may not serve alcoholic beverages.
22. Second hand stores, (thrift shops, pawn shops etc.).

23. Travel trailers in an approved travel trailer park.
24. Veterinarian clinics and hospitals.

Special Use:

Any commercial business or service not included in any of the foregoing, provided that all such uses shall be completely within an enclosed building and are not noxious or offensive by reason of emission of odor, dust, gas fumes, noise, vibration or classified as a public nuisance and has been approved by the Town council.

Prohibited uses and structures:

1. Residential uses, except, one mobile home unit for a watchman or grounds caretaker on the same lot or tract of land, provided that such mobile home is not used as a commercial or office unit, and, provided that no other residential unit is located on the same lot or tract.
2. Mobile home parks.
3. Industrial uses.

Parking regulations:

As specified in Section 6, item 12 of the Zoning District Regulations and or all parking areas shall be asphalt, concrete or covered with crushed stone or similar material

Area setback regulations and yard requirements:

1. No setbacks are required.
2. Where a tract of land in this district, abuts a parcel of land in any residential zoning district, a privacy fence or wall a minimum of eight (8) feet in height shall be installed.

Height and area regulations:

1. Maximum height 35 feet.
2. Lot coverage by structure, driveways and parking spaces shall be no greater than 90 percent of total lot area.

Non-conformities:

Any non-conforming uses in existence at the time of the adoption of this ordinance, shall be considered a valid non-conforming use until such time of, change of ownership and or 51 percent or

more of the estimated appraised value of the property in replacement of damage, upgrades and or improvements to structure and or property. At that time all structures and or property shall come into compliance with these regulations.

Heavy Industrial District - (H-I)

Purpose: The purpose of this district is to provide for all types of industrial operations, except certain potentially hazardous industries, which may be permitted only as a special use to insure the protection of the public interest and surrounding property.

Permitted uses: A building or structure shall be used only for the following purposes, provided such users are not offensive or obnoxious by reason of emission of dust, smoke, odor, gas, noise or vibration.

1. Any permitted use in the Community Commercial District.
2. Any permitted use in the Limited Industrial District.
3. Commercial truck or heavy equipment repair shops.
4. Construction office, yard and shops.
5. Gasoline, natural gas, propane, and petroleum refineries.
6. General industry, warehousing of materials and products.
7. Manufactured housing fabrication plants.
8. Quarry pits, excavation of grave, sand and minerals ores, asphalt plants.
9. Automobile wrecking yards or junkyards.
10. Bulk storage of gasoline, diesel, propane or oil base products.
11. Landfills, garbage dumps.
12. Manufacture of acid, concrete, explosives, fertilizer and glue.
13. Storage of acids, cement, explosives, fertilizers and glue.
14. Stockyards, commercial feed lots or slaughter of livestock.
15. Adult Oriented Business

No adult oriented business shall be established within the town limits, from and after the effective date of this section unless approval by the town council has been obtained first. Adult oriented business shall have the meaning as follows: Adult oriented business: An adult oriented business shall include: adult bookstore, adult motion picture theater, adult motel, adult entertainment center, nude model studio, or sexual encounter center, or adult arcade.

Adult Oriented Business Regulations.

(1)

No adult oriented business shall be located in any zoning district except within Heavy Industrial (H-I).

(2)

Distances: No adult oriented business shall be located, operated or maintained within one thousand (1,000) feet of a residential district (whether or not a dwelling exists) church, state licensed day care facility, public library, public educational facility, private school, day care facility, kindergarten facility, public park, public swimming pool, or public athletic fields (baseball, softball, football, soccer, out door basketball or tennis courts).

Measurements: The distances outlined above shall be measured in a straight line from property line to property line.

(3)

Exterior display, signage: No adult business shall be conducted as to permit observation of any material depicting, describing or relating to specified activities or anatomical areas from any public right-of-way. This provision shall apply to any display, decoration, sign, show window or other opening.

(4)

Responsible parties: The owners, operators and manager(s) of the premises which constitutes an adult business under this ordinance are responsible for compliance with these regulations.

Special uses: All special use requests shall be submitted in writing by the property owner to the planning and zoning departments on forms in sufficient detail to determine the location and nature of such use. In order to provide for certain uses because of their unusual characteristics, the Town council may, under provisions of this appendix, grant a special use for the following:

1. Any industrial uses not listed, that may be objectionable by reason of emission of dust, smoke, fumes, odor, gas, excessive glare, noise, vibration of other similar characteristics.

All industrial and special uses shall comply with applicable state and federal regulation as required by law, including but not limited to, United States Environmental Protection Agency, Occupational Safety and Health Administration, State of New Mexico Environment Department, Uniform Building and Uniform Fire Code. The determination of compliance shall be based upon measurements taken at the boundaries of the property in which such uses are proposed or at the boundaries of a residential district adjacent to or across any street from such proposed uses providing it is not otherwise specified by a governing regulation. All special exceptions shall be approved by the Town council prior to any constructions, storage or use.

Prohibited uses and structures:

1.

Residential uses except for a single story manufactured home for a watchman or caretaker.

2. Structures used for normal human occupancy, greater than thirty-five (35) feet in height.

Parking regulations:

1. As specified in Section 6, item 12 of the Zoning District Regulations and/or shall be asphalt, concrete or cover with crushed stone or similar material.

Setback regulations and yard requirements:

1. No building setbacks are required in this zoning district however setbacks will be determined by the most current international construction codes.
2. Where a tract of land abuts a parcel of land in any Residential, Agricultural, Neighborhood Commercial zoning district, a privacy fence or wall with a minimum height of eight (8) feet shall be installed.

Minimum area requirements:

1. There are no minimum lot size requirements.

Height and area regulations:

1. Lot coverage by structure, driveways and parking spaces shall be no greater than 90 percent of total lot area.

Non-conformities: Any non-conforming uses in existence at the time of the adoption of this ordinance shall be considered a valid non-conforming use until such time of, change of ownership and/or fifty-one (51) percent or more of the estimated appraised value of the property in replacement of damage, upgrades and/or improvements to structure and/or property. At that time all structures and/or property shall come into compliance with these regulations.

Light Industrial District

Permitted principal uses and structures: A building or premises shall be used only for the following purposes:

1. Any use permitted in the Commercial Zone.
2.

Laboratories, research, experimental or testing.

3. Wholesale merchandising or storage warehouses.

4. Compounding of cosmetics, toiletries, drugs, and pharmaceutical products.

5. Manufacture or assembly of medical and dental equipment, drafting, optical, and musical instruments, watches, clocks, toys, games and electrical or electronic apparatus.

6. Manufacture or assembly or boats, bolts, nuts, screws and rivets, ornamental iron products, firearms, electrical appliances, tools, dies, machinery and hardware products, sheet metal products, ornamental art and vitreous enameled metal products.

7. Manufacture or storage of food products, including candy manufacture, dairy products and ice cream, fruit and vegetable processing and canning, packing and processing of meat and poultry products, but no distilling of beverages or slaughtering of poultry or animals.

8. Manufacture of rugs, mattresses, pillows, quilts, millinery, clothing, hosiery, fabrics and printing and finishing of textiles and fibers into fabric goods.

9. Manufacture of boxes, crates, furniture, baskets, veneer, and other wood products of a similar nature.

10. Generally those light manufacturing uses similar to those listed in items (4) through (9) above, which do not create any more danger to health and safety in surrounding areas, and which do not create any more offensive noise, vibration, smoke, dust, lint, odors, heat, or glare than that which is generally associated with light industries of the type specifically permitted and which are approved by Town council.

11. Accessory buildings and uses including accessory signs and advertising structures related to the activity conduced on these premises.

12. Railroad siding.

13. Storage and warehousing of fuel and materials and contractors' yards, except the storage of wrecked and dismantled vehicles, junk, explosives, or inflammable gases or liquids in bulk quantities.

14. Truck transfer terminal or freight house.

15. Lumberyards and millwork plants.

16. Well drilling services.

17. Liquid natural gas filling stations where above ground bulk storage of liquid natural gas does not exceed twenty thousand (20,000) gallons in aggregate. Liquid natural gas shall be

defined as containing 98.5 percent methane with less than 1.5 percent heavy carbon fuels. All such installations shall be in accordance with the most current edition of the Uniform Fire Code.

Prohibited uses and structures:

1. All above ground storage of flammable and/or combustible liquids except as provided herein or by the latest edition of the International Fire Code.
2. Residential uses except for a single story manufactured home for a watchman or caretaker.
3. Structures used for normal human occupancy, greater than thirty-five (35) feet in height.

Minimum yard requirements:

1. Where a tract of land in this district abuts a parcel of land in any Residential, Agricultural, Neighborhood Commercial zoning districts, a privacy fence or wall with a minimum height of eight (8) feet shall be installed.

Maximum height of structures and area regulations: The storage or display shall be setback from the street and/or public right-of-way so not to obstruct vehicle traffic and to allow visibility as may be determined by Town staff, to be necessary for visibility at intersection and/or driveway entrances.

Planned Unit Development District

Intent and purpose: The purpose of a Planned Unit Development (PUD) is to accommodate associations of uses developed as integral land use, such as industrial parks, industrial districts, office buildings, commercial uses, residential developments or any combination of uses which may be planned, developed or operated whether by a single ownership or by a combination of owners:

1. To create a zoning district which encourages flexibility and variety in the development of land in order to promote the most appropriate, economical and efficient use as long as it does not endanger the public health, safety, of general welfare of the public;
2. Improve the design and quality of new development which may not be possible under other zoning districts;
3. Promote more complete planning and achieve land use relationships with surrounding area.

Development plan contents:

1. Description of the area or sub-area included in the development plan by dimensions and bearings drawn to scale;
2.

General description of the surrounding area;

3. Provisions for roads, (public or private), waterlines, wastewater lines, storm drainage and utility easements;
4. Number and type of dwelling units to be constructed;
5. Number and location of any structures already located within the tract of land;
6. Anticipated construction schedule;

Development plan procedure: Submitting development plans for this district shall be in the same manner as required in Appendix B, Article V, Subdivision Regulations.

Minimum land requirements: This zoning district shall not be permitted for tracts of land not less than twenty (20) acres.

Parking requirements: As specified in Appendix C, Section 6, Item 12 of the zoning regulations.

- **Section 6. - Supplementary district regulations.**

1. *Visibility at intersections in residential district.* On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2½) and ten (10) feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection.
2. *Fences, walls and hedges, for residential and agricultural districts.* Notwithstanding other provisions of this ordinance, fences, walls and hedges may be permitted in any required front yard or along the edge of any front yard, provided that no fence, wall or hedge along the front yard shall be over four (4) feet, (forty-eight (48) inches) in height from ground surface level. The front yard shall be described as follows:
   Any portion of the property line that adjoins the public street that the building or structure is facing.

   Fences, walls and hedges may be permitted in any required rear yard or side yard, provided that no fence, wall or hedge shall be over six (6) feet (seventy-two (72) inches) in height.

   Barbed wire fences: Barbed wire fences are not allowed.

   Fences, walls and hedges for commercial, industrial districts;

   An eight-foot (ninety-six (96) inches) maximum height above ground surface level shall be permitted on any part of the required yard, provided that there shall be no fence, wall or

hedge more than four (4) feet (forty-eight (48) inches) in height above street level within clear sight of any corner lot along said street for a minimum distance of fifty (50) feet.

Barbed wire fences: Barbed wire fences are not permitted, except when located above a fence or wall that is a minimum of six (6) feet (seventy-two (72) inches) in height above ground level.

All required permits shall be obtained before construction.

3.

Accessory buildings. No accessory building shall be erected in any required yard except in accordance with the provisions of this ordinance, and no separate accessory building shall be erected within ten (10) feet of any other building. Detached accessory buildings shall conform to the following regulations as to their location on the lot or building site:

a)

They may be constructed anywhere the main building would be permitted.

b)

They may be constructed in a required rear yard provided they occupy in the aggregate not more than fifty (50) percent of the required rear yard, but not within five (5) feet of any property line.

c)

They may not be constructed in a required front or side yard.

4.

Erection of more than one (1) principal structure on a lot. In any district, more than one (1) structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this ordinance shall be met for each structure as though it were on an individual lot.

5.

Exceptions to height regulations. The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

6.

Structures to have access. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

7.

Parking, storage or use of major recreational equipment. For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment. Major recreational equipment may be parked or stored in private garages, or in the side or rear yard of private homes, businesses, or industrial establishments. No major recreational equipment shall be parked or stored in the street or in any location other than those specified above for more than twenty-four (24) hours. No major recreational equipment shall be used for residential purposes, and storage and parking of such equipment shall conform with all applicable codes and ordinances of the Town.

8.

Parking and storage of certain vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. No junk yards will be permitted in any residential or commercial zone. On any residential use lot, no more than one (1) automobile in non-running condition will be allowed.

9.

Conformance with codes. No dwelling (including mobile homes) will be allowed in any zone unless the appropriate official determines that it is in conformance with all codes and ordinances of the Town of Kirtland.

10.

Regulations governing mobile home subdivisions, mobile home parks, and travel trailer parks.

A.

General. It shall be unlawful for any person to place, construct, or alter any Mobile Home Subdivision, Mobile Home Park, or Travel Trailer Park within the Town of Kirtland without first complying with these regulations. No enlargements or extensions to any Mobile Home Subdivision, Mobile Home Park, or Travel Trailer Park shall be permitted unless the existing facility is made to conform substantially with all the requirements for new construction of such an establishment. Any enlargement or extension to any existing Mobile Home Subdivision, Mobile Home Park, or Travel Trailer Park shall require application for a special exception, as if it were a new establishment. Two (2) or more mobile homes or travel trailers parked and occupied on any plot of land under single ownership shall constitute a Mobile Home Park or Travel Trailer Park and all provisions of this ordinance shall be complied with. The division of land into two (2) or more mobile home sites or lots for purposes of individual ownership shall constitute a Mobile Home Subdivision and all provisions of this ordinance in regard to Mobile Home Subdivisions shall be complied with.

B.

Mobile home subdivisions. Mobile Home Subdivisions shall be allowed in the R-3 and TR-1 districts, provided that a special exception is granted by the Town Council in accordance with the provisions of this ordinance. In order to be granted a special exception, the Mobile Home Subdivision must comply with the regulations set forth below.

General Requirements; Site Drainage; Park Areas for Nonresident Uses; Park Street System; Off-Street Parking Areas; Utilities, Water Supply System; Utilities, Electricity; Utilities, Sewage Disposal System; and Additional Requirements shall be the same as those listed for Mobile Home Parks below.

Special Provisions and Minimum Yard Requirements shall be the same as those listed for the TR-1 Trailer Residence District.

Recreation areas:

a)

In all subdivisions accommodating or designed to accommodate twenty-five (25) or more mobile homes, there shall be one (1) or more recreation areas that shall be easily accessible to all subdivision residents.

b)

The size of such recreation areas shall be based upon a minimum of one hundred (100) square feet for each lot.

c)

Recreation areas shall be located as to be free of traffic hazards and should, where the topography permits, be centrally located.

d)

Such recreation areas shall be dedicated to the Town of Kirtland unless the applicant presents satisfactory evidence that a homeowner's association will be formed which is capable of adequately maintaining all recreation areas and facilities within the subdivision.

Walks:

The requirements for walks in Mobile Home Subdivisions shall be the same as those listed for Mobile Home Parks in items "a" and "b" below. Requirements listed in item "c" shall not apply.

Utilities, solid waste system:

The requirements for solid waste systems in Mobile Home Subdivisions shall be the same as those listed for Mobile Home Parks in items "a", "b", "c", and "d" below. Requirements listed in item "e" shall not apply.

Minimum lot requirements:

Every lot shall have a minimum area of at least five thousand (5,000) square feet for each dwelling unit, provided that municipal water and sewer facilities are available. If said facilities are not available, the minimum lot size shall be determined by State EIA requirements. The required area for each mobile home shall not include additional area required for access roads, service buildings, office and other similar Mobile Home Subdivision needs. If said facilities are available, the minimum lot area may be reduced to four thousand (4,000) square feet, provided that all separation and setback requirements are met and that a minimum of one thousand one hundred (1,100) square feet per space is provided as common open space or recreation area. Such open space or recreation areas shall be dedicated to the Town of Kirtland unless the applicant presents satisfactory evidence that a home owner's association will be formed which is capable of adequately maintaining the open space or recreation area.

C.

Mobile home parks. Mobile Home Parks shall be allowed on any tract of land under single ownership in the R-3 and TR-1 districts, provided that a special exception is granted by the Town Council in accordance with the provisions of this ordinance. In order to be granted a special exception, the Mobile Home Park must comply with the regulations set forth below.

General requirements:

Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose that would expose persons or property to hazards. Existing health regulations must be considered prior to selection of the site for a Mobile Home Park. Rock formations close to the surface shall be avoided. The Mobile Home Park shall be on a well drained site and shall be located so that its drainage will not cause

adverse effects on surrounding areas. The design of the park shall preserve natural features such as large trees and outcroppings when feasible. The topography shall be favorable to minimum grading and ease of maintenance.

Soil and ground cover:

Exposed ground surfaces in all parts of every Mobile Home Park shall be protected to prevent soil erosion and eliminate objectionable dust.

Site drainage:

The ground surface in all parts of every Mobile Home Park shall be equipped to drain all surface water in a safe, efficient manner.

Park areas for nonresident uses:

a)

No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park.

b)

Nothing contained in this section shall be deemed as prohibiting the lease, rental, or sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.

Recreation areas:

a)

In all parks accommodating or designed to accommodate twenty-five (25) or more mobile homes, there shall be one (1) or more recreation areas that shall be easily accessible to all park residents.

b)

The size of such recreation areas shall be based upon a minimum of one hundred (100) square feet for each space.

c)

Recreation areas shall be located as to be free of traffic hazards and should, where the topography permits, be centrally located.

Separation between mobile homes:

a)

Mobile Homes shall be separated from each other and from other buildings and structures by at least twenty (20) feet.

b)

An Accessory structure that has a horizontal area exceeding twenty-five (25) square feet and is attached to a mobile home shall, for purposes of all separation requirements, be considered to be part of the mobile home.

Setbacks, buffer strips and screening:

a)

All mobile homes shall be located at least twenty-five (25) feet from any park property boundary line abutting upon a public street or highway and at least ten (10) feet from other park property boundary lines.

b)

There shall be a minimum distance of fifteen (15) feet between an individual mobile home and adjoining pavement of a park street, or common parking area or other common areas.

c)

All Mobile Home Parks located adjacent to industrial or commercial land uses shall be provided with opaque screening such as fences or natural growth along the property boundary line separating the park and such adjacent nonresidential uses.

d)

When the boundary of a Mobile Home Park abuts a public street, there shall be provided at least a ten (10) foot wide landscaped buffer strip. This buffer strip shall be planted with a mixture of grass, trees and shrubs to provide a park-like appearance. Where the boundaries of a Mobile Home Park do not abut a public street, there shall be provided a decorative six-foot high screen of suitable material along these boundaries except where these boundaries abut a public park or dedicated open space in which case, suitable screening shall be accomplished by appropriate landscaping. The interior or the Mobile Home Park shall have adequate grass, trees and shrubs to provide a dust-deterrent, shaded park-like atmosphere. All areas not used for access, parking, circulation, buildings and service shall be completely and permanently landscaped and the entire site maintained in good condition.

Density and space:

The gross density of the Mobile Home Park shall not exceed eight (8) units per acre. Each space in a Mobile Home Park shall provide a minimum area of four thousand five hundred (4,500) square feet for mobile homes exceeding fourteen (14) feet in width or three thousand five hundred (3,500) square feet for mobile homes the width of which is fourteen (14) feet or less. These space requirements may be reduced to three thousand five hundred (3,500) square feet and two thousand five hundred (2,500) square feet respectively, provided that all separation and setback requirements are met and that a minimum or one thousand one hundred (1,100) square feet per space is provided as common open space or recreation area. The required area for each mobile home shall not include additional area required for access roads, service buildings, office and other similar Mobile Home Park needs.

Placement:

It shall be unlawful to allow any mobile home to be occupied in a Mobile Home Park unless the mobile home is situated within a mobile home space area and on a mobile home stand. Adequate mobile home stands, anchors, and tie downs shall be provided in every mobile home space and shall meet the requirements of the New Mexico Mobile Home Act as Amended, Rules and Regulations or, if those standards have been superseded meet the current standards in force. All mobile homes in any Mobile Home Park shall comply with Mobile Home Construction and Safety Standards, U. S. Department of Housing and Urban Development or, if those standards have been superseded meet the current standards in force. Responsibility for insuring compliance with the standards listed in this paragraph shall be the Mobile Home Park operator's.

Park street system:

a)

General requirements: All Mobile Home Parks shall be provided with safe and convenient vehicular access from abutting public streets or roads. Alignment and gradient shall be properly adapted to topography.

b)

Access: Access to Mobile Home Parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have a minimum road pavement width of forty (40) feet.

c)

Internal streets: Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:

1.

All Streets - Forty (40) feet.

2.

Dead-end streets shall be limited in length to five hundred (500) feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least eighty (80) feet.

d)

Lighting: All roads and walks within the park shall be lighted at night with a minimum of 0.6 footcandle to provide adequate lighting.

e)

Street construction and design standards:

1.

Pavement: All streets shall be paved with a bituminous surface, which shall be durable and well drained under normal use and weather conditions. Pavement edges shall be protected with curbs and gutters, as determined by the Town Council. Street surfaces shall be maintained free of cracks, holes and other hazards.

2.

Grades: Grades of all streets shall be sufficient to insure adequate surface drainage, but shall be not more than eight (8) percent. Short runs with a maximum grade of twelve (12) percent may be permitted, provided traffic safety is assured by appropriate paving, adequate leveling areas and avoidance of lateral curves.

3.

Intersections: Within one hundred (100) feet of an intersection, streets shall be at approximately right angles. A distance of at least one hundred fifty (150) feet shall be maintained between center lines of offset intersecting streets. Intersections of more than two (2) streets at one (1) point shall be avoided.

Off-street parking areas:

Off-street parking areas shall be provided in all Mobile Home Parks at the rate of at least two (2) car spaces for each mobile home space. Required car parking spaces shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of two hundred (200) feet from the mobile home that it is intended

to serve. All parking spaces shall be paved or covered with crushed stone or other similar material.

Walks:

a)

General requirements: All parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual mobile homes, the park streets and all community facilities provided for park residents.

b)

Common walk system: A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three and one-half (3½) feet.

c)

Individual walks: All mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of two (2) feet.

Signs:

One (1), and only one (1) non-animated and non-flashing identification sign or structure shall be allowed: said sign or structure shall be in conformance with all applicable state and local codes, ordinances and specifications.

Fire protection:

Every Mobile Home Park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number, and so located within the park as prescribed by and satisfying the regulations of the Town. Fires shall be made only in stoves and other equipment intended for such purpose; no open fires shall be permitted at any time.

Utilities, water supply system:

A Mobile Home Park shall be served by a community water supply system, which is accessible, adequate, safe, and potable. The number of mobile home spaces to be occupied in a mobile home park shall be limited to the quantity of water available to supply each such mobile home space adequately. A community water supply must be secured for a Mobile Home Park by connection to the existing municipal water system. The development plan shall include a written agreement with the municipality that service will be provided to the proposed development area.

Utilities, sewage disposal system:

a)

Community sewage disposal system. A Mobile Home Park shall be served by a community sewage disposal system. The development plan shall include a written agreement with the municipality or sewage disposal authority that service will be provided to the proposed development area.

b)

Plumbing and individual connections. All plumbing in a Mobile Home Park shall comply with State and local plumbing laws, codes and regulations. Each mobile home space shall be provided with at least a three-inch connection. The

sewer connection can be made between the mobile home drain and the sewer standpipe. Such individual mobile home connections shall be so constructed that they can be closed when not linked to a mobile home and capped so as to prevent any escape of odors. The mobile home drain shall be watertight and self-draining; this drain shall be constructed of smooth plastic pipe or of other material approved by the State Plumbing Code. No mobile home shall remain in a park for a period exceeding fifteen (15) days without connection to the permanent sewage disposal system of the park.

Utilities, electricity:

a)

Distribution. The electrical distribution system shall be installed and maintained in accordance with applicable codes and regulations governing such systems. It shall be located underground.

b)

Stand service. Each stand shall be provided with approved main disconnects. The feeder circuit from the main shall terminate on an approved receptacle, outlet or junction box which will provide safety and protection when the stand is not in use.

c)

Stand safety. Should the distance from the receptacle, outlet or junction box to the point where the feeder circuit enters the mobile home exceed three (3) feet, the electrical circuit shall be installed underground or protected by approved means.

Utilities, solid waste system:

a)

Solid waste system. A Mobile Home Park shall be served by a solid waste collection and disposal system.

b)

Types, solid waste system. Solid waste collection and disposal may be secured for a Mobile Home Park by either:

1.

An existing solid waste collection and disposal system operated by a municipality or other system authority, or

2.

Development of an independent solid waste collection and disposal system to be used exclusively by the Mobile Home Park.

c)

Extension. Whenever a public solid waste collection and disposal system exists and is available, that system shall include a written agreement with the municipality or system authority that service will be provided to the proposed development area.

d)

Development. If an independent solid waste collection and disposal system is to be developed, the development plan shall contain disposal site location, description, operation procedures and equipment to be used for collection and disposal. The disposal site proposed shall have an aggregate minimum useful life of twenty (20) years. Before final approval shall be granted to an applicant,

he shall, if he proposes independent solid waste collection and disposal, present a letter from the Environmental Improvement Agency stating their analysis and opinion of the developer's proposal. If they offer a negative recommendation, final approval shall not be granted unless the deficiencies reported by the EIA can be and are ameliorated.

e)

Solid waste methods within the park. The storage, collection and disposal of solid waste in the Mobile Home Park shall be so managed as to avoid completely and absolutely health hazards, rodent harborage, insect-breeding areas, accident hazards and air pollution. All solid waste shall be stored in fly-tight, watertight, rodent-proof containers, which shall be provided in sufficient number and capacity to prevent any refuse from overflowing or blowing away. Satisfactory container racks or holders shall be provided at permanent locations convenient to mobile home spaces, in areas screened by appropriate landscaping features. Incinerators shall not be used for solid waste disposal.

Additional requirements:

In addition to the foregoing, the Town Council may impose such other conditions, requirements or limitations concerning the design, development, and operation of such parks as it may deem necessary for the protection of adjacent properties and the public interest.

D.

Travel trailer parks. Travel Trailer Parks shall be allowed on any tract of land under single ownership in the L-C district, provided that a special exception is granted by the Town Council in accordance with the provisions of this ordinance. In order to be granted a special exception, the Travel Trailer Park must comply with the regulations set forth below.

General Requirements; Soil and Ground Cover; Site Drainage; Park Street System; Walks; Fire Protection; Utilities, Water Supply System; Utilities, Solid Waste System; and Additional Requirements shall be the same as those listed for Mobile Home Parks above.

Placement:

It shall be unlawful to allow any travel trailer to be occupied in a Travel Trailer Park unless the travel trailer is situated within a travel trailer space.

Off-street parking areas:

Off-street parking areas shall be provided in all Travel Trailer Parks at the rate of at least one (1) car space for each travel trailer space. Required car parking spaces shall be so located as to provide convenient access to the travel trailer, but shall not exceed a distance of two hundred (200) feet from the travel trailer that it is intended to serve. All parking spaces shall be paved or covered with crushed stone or other similar material.

Service buildings:

Every Travel Trailer Park shall provide sanitary facilities in one (1) or more service buildings. These facilities shall consist of at least one (1) flush type toilet, one (1) lavatory and one (1) shower for each sex for every fifteen (15) trailer spaces in a park. Service buildings housing sanitation facilities shall be permanent structures complying with all applicable ordinances and codes regulating buildings, electrical

installations and plumbing and sanitation systems. The service buildings shall be constructed of such moisture-proof material, which may be painted wood work, as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least sixty-five (65) degrees Fahrenheit during the period from October 1 to May 1. The floors of the service buildings shall be of water impervious material.

Clearance, travel trailers:

Travel trailers shall be so located on each space that there shall be at least a fifteen-foot clearance between travel trailers. No travel trailer shall be located closer than fifteen (15) feet to any building within the park.

Setback, buffer strips and screening:

The requirements for Travel Trailer Park setbacks, buffer strips and screening shall be the same as those listed for Mobile Home Parks above with the exception of paragraph (c) which shall read as follows: All Travel Trailer Parks located adjacent to industrial or residential land uses shall be provided with opaque screening such as fences or natural growth along the property boundary line separating the park and such adjacent noncommercial uses.

Density and space:

The gross density of the Travel Trailer Park shall not exceed twenty-five (25) units per acre. Each space in a Travel Trailer Park shall provide a minimum area of one thousand two hundred fifty (1,250) square feet. The required area for each travel trailer shall not include additional area required for access roads, service buildings, office and other similar Travel Trailer Park needs.

Utilities, sewage disposal system:

The requirements for Travel Trailer Park sewage disposal systems shall be the same as those listed for mobile home parks above with the exception of paragraph (b) which shall read as follows: All plumbing in a Travel Trailer Park shall comply with State and Local plumbing laws, codes and regulations. All exposed sanitary sewer taps, connections or risers shall be protected with a tight-fitting cap that should be kept in place until a travel trailer is connected thereto.

Utilities, electricity:

The electrical distribution system shall be installed and maintained in accordance with applicable codes and regulations. Each travel trailer space equipped for electrical hookup, shall have a minimum of twenty (20) amperes service outlet and be protected from accidental occurrence by a properly approved electrical box.

Utilities, telephone:

A minimum of one (1) public telephone shall be provided in an easily accessible location twenty-four (24) hours a day, seven (7) days a week.

E.

Responsibilities:

Park management:

The person to whom a special exception for a Mobile Home Park or Travel Trailer Park is granted shall operate the park in compliance with this ordinance and shall

provide adequate supervision to maintain the park, its facilities and equipment in good repair and in clean and sanitary condition. The park management shall notify park occupants of their duties and responsibilities under this ordinance. The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park.

Park occupants:

The park or travel trailer occupant shall comply with all requirements of this ordinance and maintain his stand and its facilities and equipment or trailer space in good repair and in a clean sanitary condition. The occupant shall be responsible for proper placement of his mobile home or travel trailer on its stand and proper installation of all utility connections in accordance with the instructions of the park management.

F.

Procedures:

Submission of plans:

An applicant for a Mobile Home Subdivision, Mobile Home Park, or a Travel Trailer Park shall submit plans and data, preliminary plats and final plats in accordance with the requirements of Ordinance No. 2016-02, Articles V and VIII. With regard to compliance with the provisions of these Articles, the word "lot" shall refer to a mobile home space or travel trailer space in addition to its usual meaning, and the phrase "single family dwelling" shall refer to a mobile home or travel trailer in addition to its usual meaning.

Application for special exception:

An applicant for a Mobile Home Park, Mobile Home Subdivision, or Travel Trailer Park shall submit an application for a special exception in accordance with the requirements of Section 8, Item 2, of the Town of Kirtland Ordinance No. 2016-02. The application may be submitted at the same time as the preliminary plat, but shall not be approved until after approval of the final plat.

Approval and licensing:

Upon approval of both the final plat and the application for a special exception, a Certificate of Zoning Compliance will be issued in accordance with the provisions of Section 7, Items 4 and 6, of the Town of Kirtland Zoning Ordinance No. 2016-02. No development or construction whatever shall take place on the proposed site until after the issuance of the Certificate of Zoning Compliance. In the case of Mobile Home Parks and Travel Trailer Parks only, after the Certificate of Zoning Compliance is obtained, a License to Operate a Mobile Home Park or Travel Trailer Park shall be obtained from the Building Inspector. This license shall not be issued until the Building Inspector has determined that the Park will comply with all legal requirements and codes of the Town and that a Certificate of Zoning Compliance has been obtained. A license to operate a Mobile Home Park or Travel Trailer Park shall terminate with the calendar year in which it is issued, but it may be renewed for additional periods of one (1) year. Before a license can be renewed, the Building Inspector must inspect and approve a Park. If approval is not granted the applicant shall have fifteen (15) days in which to make the necessary alterations or repairs to secure approval or else he shall terminate his operation. All original license applications or renewals thereof shall be accompanied by a fee of $150, plus an

additional fee of $8.00/ Lot for each mobile home or travel trailer stand in the Mobile Home Park or Travel Trailer Park. The original fee shall be pro-rated on the nearest quarterly basis between the date of the original license and October 1 of each year. It shall be unlawful for any person to establish, operate or maintain, or permit to be established, operated, or maintained upon any property owned or controlled by him, a Mobile Home Park or Travel Trailer Park within the Town, without having first secured a license to do so, granted and existing with the provisions of this ordinance. The Building Inspector may revoke any license to maintain and operate a Mobile Home Park or Travel Trailer Park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this ordinance. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with the law.

11.

General provisions: Mobile homes and travel trailers:

Lawful compliance:

It shall be unlawful for any person to place, construct or alter any individual mobile home unless it is located on an approved lot in a TR-1 zone or in an approved Mobile Home Park or Mobile Home Subdivision and is in compliance with all appropriate Town regulations. It shall be unlawful for any person to occupy a travel trailer unless it is located in an approved Travel Trailer Park and is in compliance with all appropriate Town regulations.

Storage requirements:

(1)

Mobile homes. No mobile home shall be stored in any required front or side yard, but an unoccupied mobile home may be stored in a required rear yard, provided that:

a)

no utilities are connected to such unit

b)

the unit is at least twenty (20) feet from the principal structure

c)

at least ten (10) feet from all lot lines encompassing the rear yard

d)

conforms with all applicable Town codes and ordinances.

(2)

Travel trailers. Travel Trailers may be stored, (on the basis of one (1) per family) in private garages, or in the side or rear yard of private homes, business or industrial establishments, or in the front driveway of private homes, provided that no such trailer shall be used for residential purposes, and shall conform with all applicable codes and ordinances of the Town.

(3)

Hauling trailers. Hauling trailers, customarily towed behind passenger cars, and not exceeding eight (8) feet of box length, may be kept or stored, (on the basis of one (1) per family), in private garages, or in the front driveway, side or rear yard of private homes, businesses or industries in conformance with zoning ordinances and all other applicable codes and ordinances of the Town.

Skirting mobile home:

Every mobile home shall be equipped with appropriate skirting, as determined by the Building Inspector. Pulling apparatus and axles or running gear may be left on a mobile home, provided that all apparatus is covered with adequate skirting within thirty (30) days of the installation of the mobile home.

Temporary parking, mobile home:

No mobile home shall be parked or permitted to stand upon any public street, highway, road, alley or other such right-of-way for more than a twenty-four-hour period. If so parked for less than a twenty-four-hour period, it shall be parallel to the edge of the right-of-way, safely out of the flow of moving traffic.

Temporary parking, travel trailer:

A travel trailer may be parked in a Travel Trailer Park, provided such area is in conformance with all zoning and other ordinances of the Town. No such travel trailer or motor home shall be used for residential purposes for more than thirty (30) days. Nothing in this ordinance shall prohibit the use of tents, pickup campers, and other such equipment from also utilizing an approved travel trailer park.

A travel trailer or RV may also be parked in a Mobile Home Park. Such space shall not be rented for a period of less than thirty (30) days at a time. Such spaces shall be a maximum of ten (10) percent of the total spaces or eight (8), whichever is greater. Such spaces shall not be required to have prior designation for RV's/Travel Trailers.

Coverage, mobile home:

It shall be unlawful for more than seventy-five (75) percent of any mobile home lot or space to be occupied by the mobile home and accessory structures or buildings.

Placement, accessory buildings:

Accessory buildings must be located at least three (3) feet from any mobile home.

Approval:

It shall be unlawful for any person to construct, maintain, operate or alter any mobile home, Mobile Home Park, Mobile Home Subdivision, or Travel Trailer Park unless he holds a valid license, permit, or certificate issued by the Town Building Inspector in the name of such person for the specific mobile home, Mobile Home Subdivision, Mobile Home Park, or Travel Trailer Park. All applications for permits, licenses, or certificates shall be made to the Town Building Inspector who shall issue a license, certificate, or permit upon compliance by the applicant with provisions of this ordinance and of any regulations adopted pursuant thereto, and of any other applicable legal requirements. If an applicant proposes a Mobile Home Subdivision, Mobile Home Park, or Travel Trailer Park, he shall obtain a Special Exception from the Town Council in accordance with the Town Zoning Ordinance, and shall present evidence of such procural in writing to the Town Building Inspector before the Inspector shall issue a certificate or license to an applicant. No mobile home or travel trailer shall be occupied on any proposed Mobile Home Park or Travel Trailer Park site until all improvements have been made as submitted in the approved final plat, and until proper inspections by the Town Building Inspector have been made and approval granted. No individual mobile home shall be occupied on

any proposed site until proper inspection by the Town Building Inspector has been made and approval granted.

12.

Off-street parking requirements. Every building, or portion of a building, hereafter erected shall be provided with permanently maintained parking space as provided in this section, and such parking space shall be made permanently available and be permanently maintained for parking purposes; provided, however, that any alterations, remodeling, reconstruction of existing buildings, or additions providing less than five hundred (500) square feet of additional floor space shall be exempted from this requirement. The number of off-street parking spaces required shall be no less than as set forth in the following:

All residential dwellings, including mobile homes and apartments.	Two (2) per unit.
Churches, stadiums, sports arenas, auditoriums, places of public assembly, and establishments for the sale and consumption on the premises of food or beverages.	One (1) for each one hundred (100) square feet of floor area.
Medical and dental clinics, medical professional offices, mortuaries, and retail stores other than those listed herein.	One (1) for each three hundred (300) square feet of floor area.
Banks, business or professional offices, libraries, museums, furniture and appliance stores, hardware stores, household equipment, service shops, clothing or shoe repair, or personal service shops.	One (1) for each five hundred (500) square feet of floor area.
Manufacturing uses, research and testing laboratories, creameries, bottling establishments, bakeries, canneries, printing and engraving shops, motor vehicle or machinery sales or wholesale stores, and offices not providing customer service on the premises.	One (1) for each eight hundred (800) square feet of floor area.
Hotels, motels, and lodging houses, fraternity and sorority houses, and dormitories.	One (1) for each sleeping room.
Hospitals.	Two (2) for each three (3) beds.
Sanitariums, children's homes, homes for the aged, asylums, and nursing homes.	One (1) for each five (5) beds.
Schools.	One (1) for each employee.
All other uses.	As determined by the Town Council based on the most comparable use listed above.
Use	**Parking Space Required**

Each off-street parking space shall have an area of at least two hundred (200) square feet and a width of at least ten (10) feet. Each space shall be provided with adequate ingress and egress. Each space shall be paved or covered with crushed stone or other similar material within thirty (30) days after the completion of the paving or gravelling of the adjoining street.

13.

Minimum living area. The living area of any family, as defined in the Definitions, shall not be less than five hundred fifty (550) square feet, and the living area for any family consisting of two adult people only, or a single individual, shall not be less than three hundred fifty (350) square feet.

14.

Landscaping rules and regulations.

Purpose: To promote and preserve visually attractive surroundings by enhancing the beautification of the Town, reduce soil erosion, storm water runoff and improve the quality of the environment of the Town. Have development in an attractive and high quality manner that will further improve the quality of life. Therefore, landscaping shall be required and maintained as set forth herein.

The style of landscaping is not described; however indigenous and/or drought tolerant trees and plants are strongly recommended. All landscaping shall be adaptable to the climate of this area.

1.

Landscaping requirements:

a.

All new construction or development within, Community Commercial, Neighborhood Commercial, Limited Industrial and Heavy Industrial zoning districts, shall be required to have an area of not less than 2 percent nor more than 10 percent of the site, (lot or tract of land) to be landscaped. The landscaping must occur prior to the occupancy certificate being issued, unless an agreement has been reached and approved by Town staff.

Community Commercial, Limited Industrial and Heavy Industrial zoning districts, with property fronting any Town street shall be required to landscape an area of not less than 10 percent of the property along street frontage. This area, shall exclude the building foundation, fenced storage area and sidewalks.

In addition to the above, any modifications to existing structures or site area located in a Neighborhood Commercial, Community Commercial, Limited Industrial and Heavy Industrial, with a value of thirty thousand dollars or more, shall allow for 10 percent of the modification area to be landscaped.

2.

Definitions:

a.

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

b.

Landscaping Plan: An accurate plan, drawn to scale, one (1) inch equals fifty (50) feet, drawn on at least a 24-inch by 36-inch sheet, which outlines all proposed areas to be covered with impervious materials, proposed planting beds and vegetative ground cover area, specifies the location, size and species of all proposed trees and shrubs.

c.

Trees: Minimum size at time of planting shall be 7 feet in height and have a 1 inch in diameter trunk. A multi-trunk tree shall have not less than 3 one-inch diameter trunks. A minimum of 2 live trees shall be provided for every five hundred (500) square feet of required landscaped area. The diameter of the trunk shall be taken 2 feet above grade.

d.

Shrubs: Shall mean 1-gallon size, which are approximately 1 foot in height and 1 foot in width at time of planting. A minimum of 10 shrubs shall be provided for every five hundred (500) square feet of required landscaped area. Shrubs shall be perennial plants that do not die after one growing season.

e.

Ground cover: Shall mean low shrubs, annual or perennial flowers, grasses, decorative bark and/or decorative stone, but does not include asphalt, concrete or soil which is exposed and untreated. All portions of the required landscaped area that are not covered by trees or shrubs shall be landscaped with ground cover.

f.

Buffer/screen landscaping: A strip of land established by landscaping, berm, fences, walls or combination thereof that blocks, in a continuous manner the view from one area to another, to protect one type of land usage from another with which may be incompatible, (ie; commercial and residential).

3.

Landscaping and sidewalks within public right-of-way:

a.

Landowners are encourage to landscape areas within the non-paved public right-of-way abutting their land, provided:

1.

The Town may at any time require such landscaping to be removed, and the Town shall not be responsible or liable if any landscaping is required to be removed.

2.

Such landscaping shall not impede or obstruct visibility form any vehicle or not to obstruct any public sidewalk. All landscaping installed within any public right-of-way must receive prior approval from the Parks and Recreation Department; and

3.

No landscaping shall be placed in any area where a capital improvement project has been funded until the said project has been completed.

4.

Installation and Maintenance standards: All landscaping materials required under this ordinance shall be of nursery stock quality and shall be installed in a sound manner.

a.

The required landscaping shall be installed as part of the completion of any development and or construction project unless a written agreement has been made with the Town. Such agreements allowing extending the time of installation will be for a maximum of 6 months.

b.

All landscaping shall present at all times a healthy, neat, clean, orderly, disease-free and pest-free appearance.

c.

All landscaped area shall be free from weeds, refuse and debris at all times.

d.

Any dead plant materials (leaves, branches etc.) or materials which fails to show healthy growth must be removed and or replaced with the required materials within forty-five (45) days or when weather permits.

e.

Maintenance and upkeep of all plant growth in the landscaped area including the area located in the public right-of-way, is the responsibility of the owner, lessee or tenant and shall be controlled by pruning or trimming so that it will not interfere with pedestrian or vehicular traffic nor constitute a traffic hazard.

f.

All landscaping that requires watering, the owner, lessee, or tenant shall be responsible for any cost that may arise do to the watering of said landscaping, including the watering of landscaping on public right-of-way installed by the owners, lessee or tenant.

g.

All trees and large shrubs shall be adequately supported. When trees are planted along Town streets, the following intervals shall be followed; large trees; (40 feet + in height), 30 to 40 feet apart, medium trees; (30 to 40 feet in heights), 25 to 30 feet apart, small trees (up to 30 feet in height) 20 to 25 feet apart.

NOTE: No trees shall be planted or allowed to grow into overhead power lines. Should trees, planted by owner, lessee or tenant, beneath overhead lines be allowed to grow into said lines, it shall be the responsibility of the property owner to have trees removed from the overhead lines.

h.

Of the total area that is required to be landscaped, one-half shall be located within the frontal portion of the property or adjacent to the Town street. Where building occupy corner lots, tracts fronting two streets, a minimum of one-quarter of the required landscaping shall be located each frontal area.

i.

Buffer/screen landscaping shall be constructed between 2 tracts of land which may not be compatible (such as commercial and residential).

j.

Failure to maintain the landscaping shall be considered a nuisance and subject to the provision of Ordinance 2016-05 of the Municipal Code.

15.

Outdoor lighting rules and regulations.

1.

Purpose and intent: This ordinance [subsection 15 of this section 6] regulates outdoor lighting installed on residential, commercial and industrial property, both

publicly and privately owned property within the Town of Kirtland. The purpose of this ordinance [subsection 15 of this section 6] is to create standards for outdoor lighting that does not interfere with the reasonable use of residential and commercial property, prevent light trespass and conserve energy yet maintain night time public safety. Installation of outdoor lighting shall be mandatory and shall be in conformance with the provisions of this ordinance [subsection 15 of this section 6], building codes, and all other codes and regulations as applicable.

2.

[*Applicability:*] These regulations shall apply to all outdoor lighting including, but not limited to, parking lot, search, floodlights, street lights for the following:

A.

Buildings and structures.

B.

Recreational areas.

C.

Parking lots.

D.

Landscape lighting.

E.

Other outdoor lighting.

F.

Public streets, bikeways and walkways.

These regulations shall not apply to lighting installed prior to adoption of this ordinance [subsection 15 of this section 6] . No unshielded outdoor lighting fixtures shall be installed after the date of this ordinance [subsection 15 of this section 6] . No replacement of equipment for non-conforming fixtures shall be installed other than bulbs.

3.

Standards:

A.

Maximum height of any light fixture or illumination source shall not exceed thirty (30) feet.

B.

Maximum wattage shall be two hundred fifty (250). All lighting units shall be hooded or shielded as to direct all lighting downward.

C.

Lights shall not direct light, either directly or through a reflective device, upon any adjacent property.

D.

All lights mounted on poles or structures, eight (8) feet or greater in height shall be directed downward. No less than four (4) degrees or more than fifteen (15) degrees.

E.

Light fixture positioning and/or shields/hoods must limit the light rays and direct all illumination within the boundary of the owner's property.

F.

All outdoor lights installed on parking lots, streets/walkways shall either use low, high pressure sodium or metal halide lamps.

G.

No mercury vapor lights are allowed.

H.

Placement of fixtures along public street, walkways, bikeways shall be not less than two hundred fifty feet (250) nor more than three hundred fifty [feet] (350) apart or which is deemed necessary by the Town council to adequately to supply sufficient lighting. All fixtures shall be constructed within public right of way and shall become the property of the Town upon acceptance by the Town council.

I.

A minimum of one (1) lighting fixture shall be installed at each intersection or however many shall be deemed necessary by the Town council to adequately supply sufficient lighting for said intersection.

J.

All subdivision plats shall show the location of all proposed light fixtures.

K.

Trees and shrubbery shall not be located where they reduce or block parking or roadway lighting.

4.

Exemptions:

A.

Incandescent fixtures with a total of one hundred fifty (150) watts or less per fixture.

B.

Emergency lighting utilized during natural or man made disasters.

C.

Temporary lights for special events that does not exceed four (4) consecutive nights nor more than one (1) thirty-day period within a calendar year.

D.

Special lighting events such as holiday decorations, civic events or construction projects.

F.

Baseball, softball, football, soccer fields, outdoor arenas, and amphitheaters or other similar facilities.

- **Section 7. - Administration and enforcement—Building permits and certificates of zoning compliance.**

1.

Administration and enforcement. An administrative official designated by the (Town council or Town manager) shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the (Town council or Town manager) may direct.

If the administrative official shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

2.

Building permits required. No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor, issued by the administrative official except in conformity with the provisions of this ordinance, unless he receives a written order from the Town Council in the form of an administrative review, special exception, or variance as provided by this ordinance.

3.

Application for building permit. All applications for building permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate, conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.

One (1) copy of the plans shall be returned to the applicant by the administrative official, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and one (1) copy of the plans, similarly marked, shall be retained by the administrative official.

4.

Certificates of zoning compliance for new, altered, or non-conforming uses. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued therefor by the administrative official stating that the proposed use of the building or land conforms to the requirements of this ordinance.

No non-conforming structure or use shall be maintained, renewed, changed, or extended until a Certificate of Zoning Compliance shall have been issued by the administrative official. The Certificate of Zoning Compliance shall state specifically wherein the non-conforming use differs from the provisions of this ordinance, provided that upon enactment or amendment of this ordinance, owners or occupants of non-conforming uses or structures shall have three (3) months to apply for Certificates of Zoning Compliance. Failure to make such application within three (3) months shall be a violation of this ordinance and shall be punishable under section 13 of this ordinance.

No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a Certificate of Zoning Compliance, and the Certificate shall be issued in conformity with the provisions of this ordinance upon completion of the work.

A Temporary Certificate of Zoning Compliance may be issued by the administrative official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such Temporary Certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

The administrative official shall maintain a record of all Certificates of Zoning Compliance, and a copy shall be furnished upon request to any person.

Failure to obtain a Certificate of Zoning Compliance shall be a violation of this ordinance and punishable under section 13 of this ordinance.

5. *Expiration of building permit.* If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the administrative official; and written notice thereof shall be given to the persons affected.

   If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be cancelled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

6. *Construction and use to be as provided in application, plans, permits, and certificates of zoning compliance.* Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this ordinance, and punishable as provided by section 13 hereof.

- **Section 8. - Planning and Zoning commission: Powers and duties.**

The Planning and Zoning Commission shall have the following powers and duties:

1. *Administrative review:* To hear and make recommendations to the Town Council where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of this ordinance.
2. *Special exceptions: Conditions governing applications; procedures.* To hear and decide only such special exceptions as the Planning and Zoning Commission is specifically authorized to pass on by the terms of this ordinance; to decide such questions as are involved in

determining whether special exception should be granted; and to recommend special exceptions with such conditions and safeguards as are appropriate under this ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this ordinance. A special exception shall not be recommended by the Planning and Zoning Commission unless and until:

a)

A written application for a special exception is submitted indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is requested;

b)

Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of hearings shall be posted at the Town Hall, and in one (1) other public place at least fifteen (15) days prior to the public hearing;

c)

The public hearing shall be held. Any party may appear in person, or by agent or attorney;

d)

The Planning and Zoning Commission shall make a finding that it is empowered under the section of this ordinance described in the application to recommend the special exception, and that the granting of the special exception will not adversely affect the public interest;

e)

Before any special exception shall be issued, the Planning and Zoning Commission shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:

1)

ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

2)

off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the districts;

3)

refuse and service areas, with particular reference to the items in (1) and (2) above;

4)

utilities, with reference to locations, availability, and compatibility;

5)

screening and buffering with reference to type, dimensions, and character;

6)

signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

7)

required yards and other open space;

8)

general compatibility with adjacent property and other property in the district.

3.

Variances; conditions governing applications; procedures. To recommend to the Town Council in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of this ordinance shall not be recommended by the Planning and Zoning Commission unless and until:

a)

A written application for a variance is submitted demonstrating:

1)

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

2)

That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

3)

That the special conditions and circumstances do not result from the actions of the applicant;

4)

That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

b)

Notice of public hearing shall be given as in section (2)(b) above;

c)

The public hearing shall be held. Any party may appear in person, or by agent or by attorney;

d)

The Planning and Zoning Commission shall make findings that the requirements of section (3)(a) have been met by the applicant for a variance;

e)

The Planning and Zoning Commission shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;

f)

The Planning and Zoning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In recommending any variance, the Planning and Zoning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under section 13 of this ordinance.

- **Section 9. - Schedule of fees, charges, and expenses.**

The Town Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by the Town Council.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

- **Section 10. - Amendments.**

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be given either by publication in a newspaper of general circulation in the Town or by posting copies thereof in six (6) public places within the corporate limits of the Town of Kirtland, New Mexico, as provided in section 14-1-2(J) of the 1953 New Mexico Statutes Annotated, as amended.

When a proposed amendment affects the zoning classification of property, such amendments shall not become effective except by the favorable vote of the Town Council.

- **Section 11. - Provisions of ordinance declared to be minimum requirements.**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare.

Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

- **Section 12. - Complaints regarding violations.**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrative official. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance.

- **Section 13. - Penalties for zoning violation.**

The owner, agent, tenant, lessee, building contractor, architect, or any other person who commits, takes part in or assists in any violation of a structure or premises in or upon which a violation of this ordinance has been committed, shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) or by imprisonment for not more than ninety (90) days, or by both fine and imprisonment. Each and every day that such violation continues shall constitute a separate offense.

Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

- **Section 14. - Severability clause.**

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

- **Section 15. - Definitions.**

For the purposes of this ordinance, certain terms or words used herein shall be interpreted as follows:

The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word shall is mandatory, the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot includes the words plot or parcel.

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

Apartment house. A building or portion thereof designed or used for three (3) or more dwelling units, with separate housekeeping and cooking facilities for each.

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

Drive-in restaurant or refreshment stand. Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dwelling, single-family. A detached residential dwelling unit whether constructed on the site or prefabricated at an offsite location, other than a mobile home, but including modular homes, designed for and occupied by one (1) family only.

Dwelling, two-family. A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

Dwelling, multiple-family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling unit. One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Family. One (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five (5) persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

Filling station. Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories are supplied and dispensed at retail, and where minor mechanical and repair work may also be conducted. No uses are permissible at a filling station which, in the opinion of the Town Council, are objectionable by reason of odor, dust, smoke, fumes, gas, noise, or vibration, or may prove hazardous to public health, safety, or general welfare, or may be injurious to property in the neighborhood. If more than five (5) vehicles are stored at a filling station for more than 24 hours, they must be completely hidden from view by a structure or opaque screen.

Garage, private. An accessory building housing one (1) or more vehicles owned and used by occupants of the main building.

Garage, public. A building, or portion thereof, designed or used for servicing, repairing, equipping, hiring, selling, or storing motor-driven vehicles.

Hauling trailer. A trailer designed and normally used for over-the-road transporting of belongings, equipment, merchandise, livestock, and other objects, but not equipped for human habitation.

Home occupation. An occupation conducted in a dwelling unit, provided that:

a) No person other than members of the family residing on the premises shall be engaged in such occupation;

b) 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 twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding one (1) square foot in area, nonilluminated, and mounted flat against the wall of the principal building;

d)

No home occupation shall be conducted in any accessory building;

e)

There shall be no sales in connection with such home occupation;

f)

No traffic shall be generated by such home occupation in greater volumes than 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;

g)

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

Junkyard, automobile. A lot on which two (2) or more inoperative, non-functioning automobiles, tractors, or similar vehicles are stored for purposes of salvage, or upon which two (2) or more vehicles have been discarded or disposed of.

Loading space, off-street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot. For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

a)

A single lot of record;

b)

A portion of a lot of record;

c)

A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;

d)

A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot frontage. The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this section.

Lot measurements.

a)

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

b)

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

Lot of record. A lot which is part of a subdivision recorded in the office of the County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot types. The diagram (Figure 1) which follows illustrates terminology used in this ordinance with reference to corner lots, interior lots, reversed frontage lots and through lots:

In the diagram, A-corner lot, defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees. See lots marked A(1) in the diagram.

B-interior lot, defined as a lot other than a corner lot with only one (1) frontage on a street.

C-through lot, defined as a lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

D-reversed frontage lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).

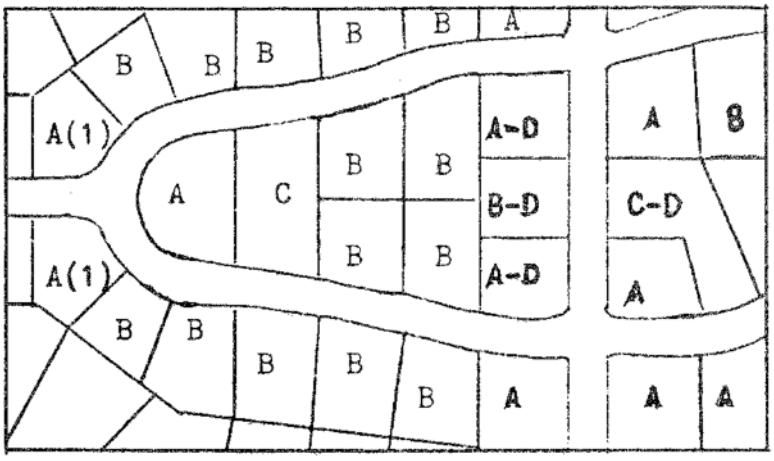


FIGURE 1

Outdoor advertising business. Provision of outdoor displays or display space on a lease or rental basis only.

Mobile home. A vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to utilities for unlimited periods of time; further, a single-family dwelling unit suitable for year-round occupancy and which has provision for compliance with the applicable code requirements for dwellings. Such vehicle shall be eligible for registration and licensing by the State of New Mexico and for being transported on the public streets and highways.

Mobile home, double wide. A mobile home which is constructed in two (2) sections which are put together on the site. Each section has individual axles, tongues, titles, and licenses.

Mobile home park. A tract of land under single ownership upon which two (2) or more mobile homes, occupied or intended to be occupied, are located with suitable supporting elements, and devoted to the purpose of accommodating, regardless of whether or not a charge is made for such accommodation, mobile homes located therein for non-transient use.

Mobile home space (lot). A parcel of land set aside for use as a site for one (1) mobile home, including the open spaces around said mobile home, in accordance with the requirements of this ordinance.

Mobile home stand. That portion of the mobile home space intended for occupancy by the mobile home, consisting of a rectangular plot of ground of dimensions to be determined by the size of the unit to be accommodated.

Mobile home subdivision. A unified development of a parcel of land which has been divided for the purposes of individual ownership, into two (2) or more mobile home sites or lots.

Modular home. A dwelling constructed offsite with a framed outside perimeter and then brought to the site and placed on a permanent foundation after removing the frame.

Non-conforming use. Any building, structure, land or use thereof which does not conform to the zoning regulations as set forth and which lawfully existed on the effective date of those regulations with which it does not conform.

Parking space, off-street. For the purposes of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another.

For the purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the Town.

Pickup coach. A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render suitable for use as temporary dwelling for travel, recreation and vacation uses.

Service building. A building housing toilet facilities for men and women, with such other facilities as may be required by this ordinance.

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

Sewage system, community. A liquid waste treatment system serving two (2) or more parcels for the collection and treatment of liquid waste.

Sewage system, individual. A sewage disposal system which receives waste from one (1) parcel, and includes, but is not limited to, septic tank systems, aerobic disposal systems and evapotranspiration systems.

Sign regulations.

1.

Purpose. Restrict signs that will by their size, location, construction and/or appearance, endanger the public health and safety of individuals or confuse, mislead and/or obstruct vision necessary for traffic safety. To create a more aesthetically pleasing community by regulating signs. Provisions of this ordinance shall apply to all signs defined and located within the Kirtland Town Limits.

2.

Definitions. For the purpose of this ordinance, the following terms and words are hereby defined:

(a)

Sign: Shall mean any outdoor display or other representation which shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any other manner whatsoever, so that the same shall be used for advertising.

(b)

Attached sign: Shall mean any sign which is attached, fastened, connected, painted or supported in whole by a building or in part by a building or structure other than a sign structure (which is supported wholly by ground). Attached signs include, awning signs, projecting signs, roof signs and wall signs.

(c)

Awning sign: Is any sign that is a part of or attached to an awning, canopy, or any other protective cover over a door, entrance, window, or outdoor service area.

(d)

Billboard sign: Shall mean an off-premises, freestanding sign at least seventy-two (72) square feet in face area which advertises or directs attention to a business, product, service or event. None of the products or services may be conducted, sold or offered on the premises where the billboard is located.

(e)

Directional sign: Shall mean any sign erected for the convenience of the public such as for directing traffic movement, parking or identifying rest rooms, public telephones, walkways and other similar facilities. Directional signs may contain no advertising message.

(f)

Display surface. Shall mean the entire surface area of the sign, used for the purpose of displaying the advertising, excluding the frame and supports.

(g)

Freestanding sign. Shall mean any sign which is not attached or supported by any part of a building. Freestanding signs include pole signs, ground signs, monument signs, billboard, directional and portable signs.

(h)

Maximum size: Is the total face area of a sign used for the purpose of displaying an advertising message and/or display including the sign frame. In case of irregular shaped signs, maximum size is the area bounded within a single continuous perimeter composed of a square or rectangle. In case of freestanding signs, all references to maximum size refer to one (1) side of a two-sided sign. (See exhibit #1 [referred to herein by reference])

(i)

Mural: Is a non-commercial picture or illustration applied directly to a wall of a building or structure which does not advertise or promote business, service or product. Murals are not considered a sign; unless, picture or illustration relates directly to the business name, logo, insignia or product.

(j)

Neon sign: Shall mean any sign that incorporates the use of neon gas filled tubes in the illumination of the sign lettering and design elements.

(k)

Projecting sign: Shall mean any sign attached to a building or wall in such a manner that its leading edge extends more than twelve (12) inches beyond the surface of said building or wall. Projecting signs shall be placed no less than fourteen (14) feet above the level of the street or sidewalk. Awning signs, roof signs are not considered to be projecting signs.

(l)

Roof sign: Shall mean any sign attached to the roof of a building or structure. The maximum height of this type of sign shall be five (5) feet above the wall or thirty-five (35) feet total combined height of building and sign.

(m)

Spectacular sign: Shall mean any sign which has automatically changing advertising, or which is equipped with glaring or rotating, strobe, flashing or spot lights.

3.

General provisions: The following provisions are required of all on or off premise signs including attached or freestanding signs.

(a)

Business license: Persons engaged in the business of erecting, altering, relocating, constructing or maintaining signs or operating the advertised business with in the Town limits, must have a valid Town business license.

(b)

Construction specifications: All freestanding signs shall be designed to withstand seventy-five (75) mph wind and shall be stamped and/or certified by a New Mexico licensed professional engineer to withstand said winds.

(c)

All freestanding signs shall have self-supporting structures erected on or attached to concrete foundations.

(d)

No sign shall be erected or constructed that obstructs any fire escape, window or door opening used as a means of ingress egress.

(e)

No sign shall be suspended by non-rigid attachments that will allow the sign to swing in the wind. Exception, a banner may move in the wind.

(f)

All signs must be properly maintained: Exposed surfaces must be clean and painted (if paint is required). Defective parts must be replaced. The Town shall have the right to order the repair or removal of any sign which is defective, damaged or deteriorated. This provision applies to all signs within the Town limits.

(g)

Shielding of lighting: All signs that require lighting, shall not interfere with vehicular or pedestrian traffic and adjacent residential areas.

(h)

Visibility at intersections and ingress/egress access: A sign may not exceed four (4) feet in height from the adjacent street grade. A clear sight triangle shall be formed by measuring fifty (50) feet it each direction along property lines from the intersection point of both property lines. A sign shall not exceed three (3) feet in height from the adjacent street grade for signs located on ingress and egress access to a parking lot or other similar access. A clear sight triangle shall be formed by a line thirty (30) feet on the front property line and ten (10) feet perpendicular to the front street property line on either side of the entrance/exit and a line connecting these points. (See exhibit #2 [referred to herein by reference])

4.

Off premise signs provisions: An "off premise sign" is any sign identifying or advertising the business, person, activity, goods, products or services not located on the premises where the sign is installed and maintained, or which directs persons to any location not on the premises.

5.

Billboard signs: The only off-premise sign permitted by this ordinance are billboards. All billboards shall be subject to the following requirements:

(a)

Billboards located within the Town limits shall not exceed two hundred fifty (250) square feet of total face area and shall be spaced a minimum of seven hundred fifty (750) feet apart as measured from ground elevation.

(b)

Billboards shall not be located along any marginal, minor or collector streets. Billboards shall only be allowed on arterial roadways.

(c)

Billboards shall be freestanding signs and shall be supported by a maximum of four (4) upright poles.

(d)

Billboards shall be set back a minimum of thirty (30) feet from the property line along a principal arterial street or behind any established easement, whichever is greater.

(e)

Stacking of billboards vertically or horizontally is prohibited; regardless of total face area permitted.

(f)

Property for billboard signs must be zoned Commercial, Limited Commercial or Light Industrial. A special exception and/or a zone change may be requested for signs in an Agricultural district. No billboards may be placed in any R-1, R-2, R-3, Mobile Home, TH-1, or TH-2 districts.

6.

On premise sign provision: An "on-premise sign" is any sign identifying or advertising the business, person, activity, goods or services sold or offered on the premise where the sign in located and maintained.

(a)

Maximum number of signs: Only one (1) sign per street frontage. For those properties fronting only one (1) street and having an excess of five hundred (500) linear feet of street frontage may have one (1) additional sign.

7.

Temporary signs: A "temporary sign" is any sign constructed and displayed for a limited time period.

(a)

Portable signs. A "portable sign" is any sign designed or constructed to be easily moved from one (1) location to another. Every portable sign must be securely anchored to the ground by ground supports in order to prevent high winds from overturning it.

(b)

Portable signs shall be placed on level ground. Shall be a maximum of five (5) feet tall, and shall have a maximum of thirty-two (32) square feet. For double sided signs sixty-four (64) square feet.

(c)

Portable signs shall not be electrified.

(d)

Portable signs shall not be placed on any sidewalk or placed in any public right-of-way.

(e)

Portable signs and banners are classified as temporary signs.

8.

Banners: A "banner" is a sign whose display surface is made from cloth or similar non-rigid material. Banners must be properly secured.

9.

[*Temporary signs:]* Temporary signs shall not be displayed for a period longer than ninety (90) days.

10.

Setbacks for on premise and temporary signs: Shall be ten (10) feet from front property line and ten (10) feet from side property line. No sign shall be placed, constructed or allowed on any public right-of-way or utility easement.

11.

Abandoned or dangerous signs: An "abandoned sign" is any on or off premise sign which no longer directs, promotes or advertises a business, lessee, owner, product or activity conducted or product or service available on the premise where such sign(s) is displayed. A "dangerous sign" is any sign that is materially, structurally, or electrically defective whether by construction, maintenance, neglect, abuse or age.

(a)

Building Inspector or Code Enforcement Officer may inspect a sign at any time.

(b)

If it is determined upon inspection that a sign is abandoned or dangerous or in any way endangers the public the Town may issue a order to the owner of the property upon which the sign is located. Said order shall state the nature of the violation and require repair or removal of the sign within thirty (30) days of the date of order.

(c)

Upon vacating the premises or discontinuing the business, the property owner, lessee shall cause all signs, to be removed, blanked out or covered. The owner, lessee will have thirty (30) days from the date of closer of said business.

12.

Prohibited signs: All signs listed below shall be prohibited within the Town limits. Any sign found in violation shall be subject to penalty provision of the Kirtland Municipal Code.

(a)

Signs on public rights-of-way. With the exception of signs lawfully permitted or erected, it shall be unlawful to place a sign upon a public sidewalk, public curb, public street, alley, public right-of-way, public building or structure of any kind belonging to the Town, unless, express consent has been obtained first from the Town Council.

13.

Exempted signs: No permit is required for the following signs:

(a)

Legal notices and house numbers.

(b)

Garage sale signs, garage sale signs shall be removed within forty-eight (48) hours after sale ends.

(c)

Real estate signs.

(d)

Neon window signs.

(e)

On-premise directional signs which direct traffic to and from parking.

(f)

Traffic signs erected by the Town, County, State of New Mexico or Federal government.

14.

Non-conforming signs:

(a)

No person may engage in any activity that causes an increase in the extent of nonconforming sign.

(b)

A non-conforming sign may not be moved or replaced except to bring the sign into complete compliance with this ordinance.

(c)

Existing freestanding signs which are in non-conformance due to only their setback measurements are hereby exempt from setback requirements and are considered legal for the life of that sign.

(d)

Temporary and portable signs are not permanent by their nature and are not eligible for non-conforming status.

15.

Administration and enforcement:

1.

Permit procedure.

(a)

Permit applications shall include but not limited to the following information:

Name and address of property owner of property upon which the sign is or will be located. Name and address of contractor who will do the construction or alterations, street address upon which the sign will be located, type of sign(s), site plan showing location, of the proposed sign and all existing structures.

(b)

All sign permits applications shall be accompanied by payment of the appropriate fee established by the Town Council.

(c)

A sign permit may be suspended or revoked for any false statement or misrepresentation on a application. The permit becomes null and void; if work does not commence within ninety (90) days and project not completed within one hundred eighty (180) days.

16.

Exemption: Any individual or business, who believes that any of the requirements contained in this ordinance, causes a substantial hardship or injustice because of extenuating circumstances, may request a special exception from the Town.

(a)

The following procedures shall be followed: A completed special exception application form filled out and submitted to the Town Council via the Planning and Zoning Administrator along with written explanation of the alleged hardship.

(b)

The Town may approve the special exception request provided; the public welfare and the interest of the Town are protected, general intent of this ordinance is preserved and strict application of the requirements contained in this ordinance would result in real difficulties and substantial hardship and deprive subject property of privileges enjoyed by other properties in the vicinity under the same zoning classification.

Permit fees: The sign permit fees set forth are adopted and the following fee is established: One dollar ($1.00) for each square foot of display surface area.

Special exception. A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provision for such special exceptions is made in this zoning ordinance.

Street line. The right-of-way line of a street.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, and poster panels.

Travel trailer. A vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel and recreational purposes, and having a body width not exceeding eight (8) feet and a length not exceeding forty (40) feet when equipped for the road. A travel trailer can be a self-propelled vehicle, such as a motor home or pickup coach, or a vehicle without a means of self-propulsion, such as a mobile home.

Travel trailer park. A unified development under private ownership designed primarily for transient service on which two (2) or more travel trailers can be parked, situated or used for the purpose of supplying to the public a parking space for such vehicles.

Travel trailer stand. A parcel or area of land for the placement of a single (1) travel trailer and the exclusive use of its occupants and which is located in a travel trailer park.

Variance. A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

Water supply system, community. A water supply system serving two (2) or more parcels.

Water supply system, individual. A water supply System Serving one (1) parcel.

Yard. A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward; provided however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard, front. A yard extending between side lot lines and between the front yard line setback and the front street line of the lot. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of thirty (30) inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of thirty (30) inches and ten (10) feet.

In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one (1) of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the administrative official may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots and reversed frontage lots, minimum yard requirements for the second front yard shall be the same as those for side yards in each zone, provided that the depth of the second front yard shall be at least half the depth of the required main front yard.

In the case of lots with more than two (2) frontages, the administrative official shall determine the front yard requirements, subject to the following limitations: 1) At least one (1) front yard shall be provided having the full depth required generally in the district; 2) No other front yard on such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

Yard, side. A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after the establishment of main and second front yards and a rear yard shall be considered side yards.

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

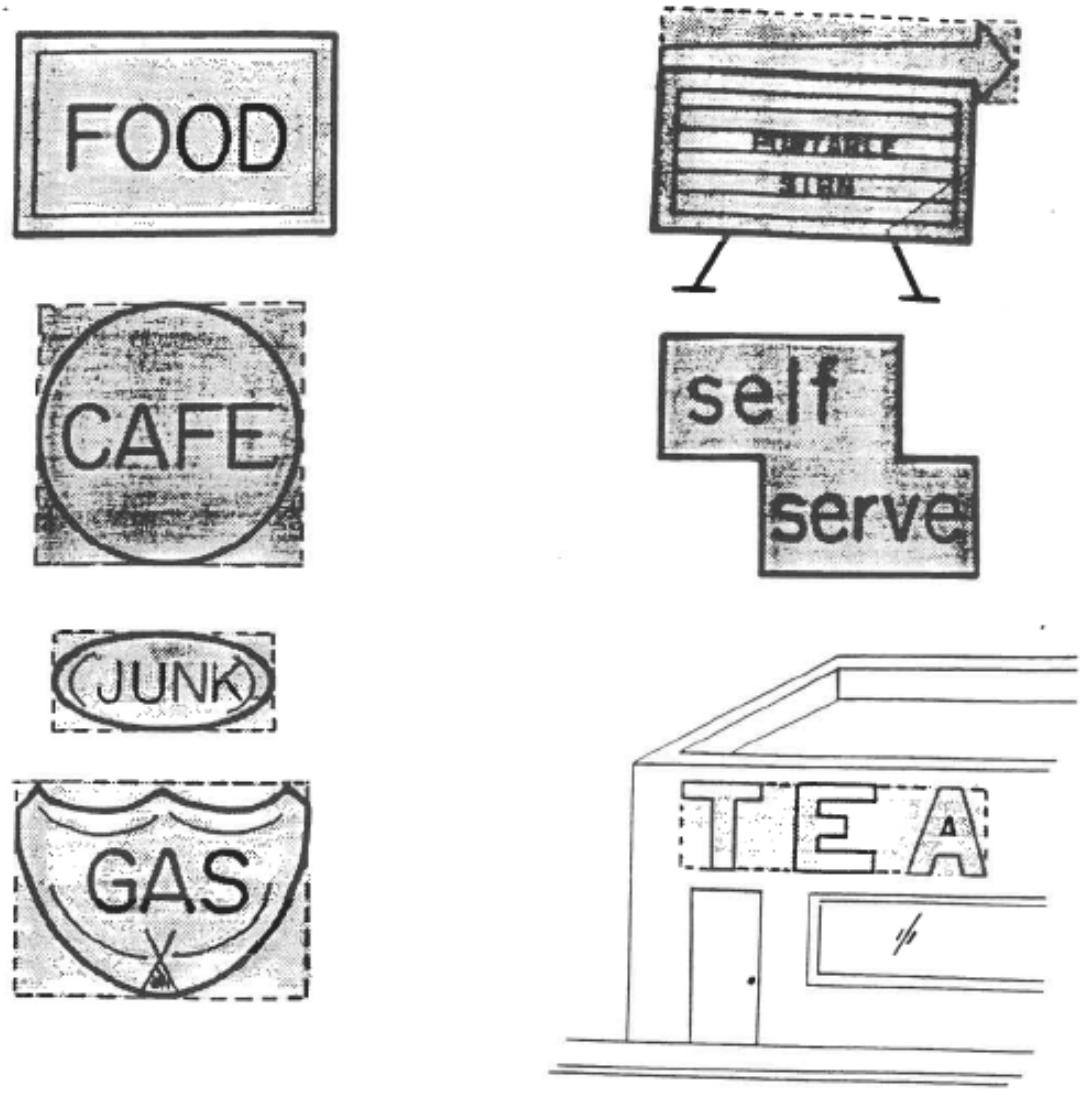
Yard, rear. A yard extending across the rear of the lot between inner side yard lines. In the case of through lots, there will be no rear yards, only front and side yards. In the case of corner lots, the rear yard shall be that yard at the opposite end of the lot from the main front yard.

Depth of a required rear yard shall be measured in such manner that the yard established is a strip of at least the minimum width required by district regulations with its inner edge paralleled with the rear lot line.

Yard, special. A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

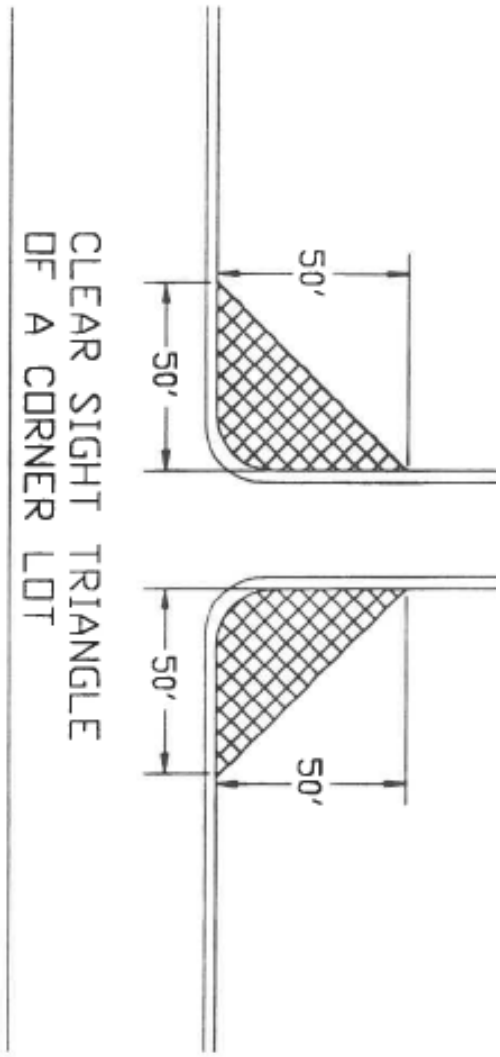
EXHIBIT #1 – AREA OF SIGNS

DETERMINING THE TOTAL FACE AREA OF A SIGN

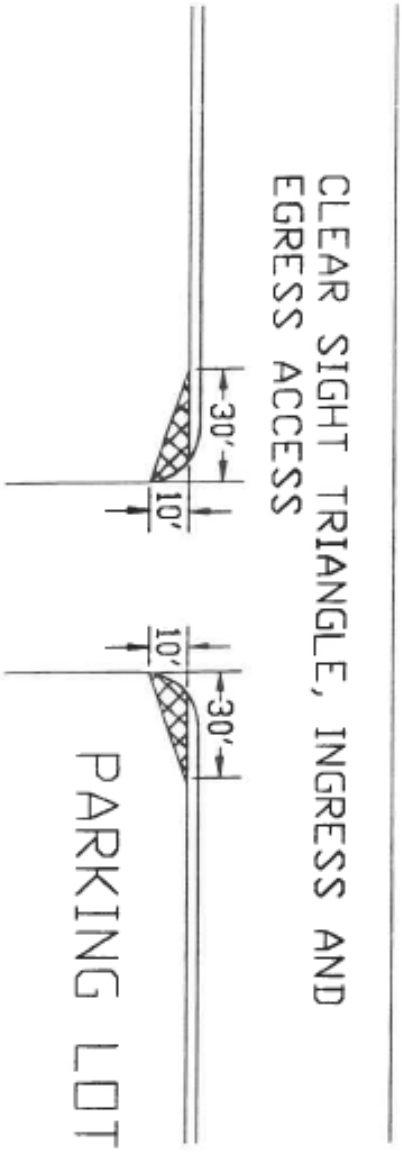


Shaded area indicates the total face area of each sign

EXHIBIT #2 – CLEAR SIGHT AT CORNERS



CLEAR SIGHT TRIANGLE
OF A CORNER LOT



CLEAR SIGHT TRIANGLE, INGRESS AND
EGRESS ACCESS