

Town of Peralta Comprehensive Zoning Ordinance

Number 2007-09; Amended)
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SECTION 1. TITLE:

These regulations shall be known as the "Comprehensive Zoning Ordinance" of the Town of Peralta, New Mexico and shall be referred to herein as "this Ordinance".

SECTION 2. PURPOSE:

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

SECTION 3. APPLICABILITY:

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

SECTION 4. DEFINITIONS:

- A. For the purpose of this Comprehensive Zoning Ordinance, standard dictionary definitions shall be used except for certain words or phrases used herein, which shall be interpreted as follows:
 - 1. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
 - 2. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
 - 3. Word Forms "shall" and "must" are mandatory, and the word "may" be permissive.

- B. As used in this Section, the following terms shall have the meanings indicated:

ABANDONED WELL

A wellhead whose use has been permanently discontinued or which is in such disrepair that its continued use for the purpose of obtaining groundwater is impracticable or may constitute a health hazard.

ACCESSORY

Subordinate and incidental to a principle use or structure on the premises.

ACCESSORY LIVING QUARTERS

Temporary living quarters within an allowed accessory structure only for the reason of a legitimate hardship or medical necessity. This unit shall not be used as a rental unit and shall not exceed 500 square feet of floor space.

ACCESSORY USES AND STRUCTURES

Uses and structures that are customarily accessory and clearly incidental and subordinate to principal uses and structures.

ADULT ENTERTAINMENT ESTABLISHMENT

A business which either directly or indirectly provides sex-related products and services or adult entertainment.

AGENT

Anyone authorized by a notarized letter signed by the property owner to represent same.

AGRICULTURAL ANIMAL

Animals other than dogs, cats and indoor birds, such as horses, cows, pigs, sheep, llamas, chickens, etc., such as would typically be found in an agricultural environment.

AGRICULTURAL EQUIPMENT

Farm field and farmstead machinery used for the production of crops and agricultural livestock.

ANIMAL SANCTUARY /SHELTER

A nonprofit facility for the short- or long-term care and custody of animals, which may include lost pets, owner-released pets, cruelty cases, rescued animals and/or permanent retirement candidates.

BAIL BOND

A written promise signed by a defendant or a surety (one who promises to act in place of another) to pay an amount fixed by a court should the defendant named in the document fail to appear in court for the designated criminal proceeding at the date and time specified.

BANKING AND FINANCIAL SERVICES

Any state or federally chartered bank, saving association, credit union, or industrial loan company, retail seller engaged primarily in the business of selling consumer goods that cashes checks or issues money orders as an incidental service to its main purpose or business and which is offered as a service to customers, but excludes any establishment whose primary purpose is to provide cash advances, payday loans, payday advances, and similar services.

BED-AND-BREAKFAST

An owner-managed and -occupied residential structure used as a lodging establishment where a room or rooms are rented on a nightly basis, and in which only breakfast is included as a part of the basic compensation.

BOARDING, ROOMING, OR LODGING HOUSE

A building other than a hotel, motel, or restaurant where lodging, with or without meals, is provided for compensation. Such building shall not contain more than five (5) guest rooms. This definition includes a " Bed and Breakfast" enterprise.

BODY ART

Tattooing, body piercing or scarification, but does not include practices that are considered medical procedures by the New Mexico Medical Board.

BODY ART/MODIFICATION ESTABLISHMENT

Any establishment that engages in the business of tattooing and/or branding and body piercing of human beings, including scarification. A permanent picture, design, or other marking made on the skin by pricking it and staining it with an indelible dye. This excludes the application of permanent makeup in a salon setting with appropriate equipment and the piercing of ears with the use of a piercing gun.

BUILDING

A structure, of temporary or permanent construction, having a roof and intended to be used for sheltering people, animals, property, or business activity.

CANNABIS DEFINITIONS

CANNABIS

Cannabis defined in NMSA 1978, Sections 26-2C-1 to 26-2C-42, for the purposes of this Zoning Ordinance, cannabis is defined for commercial purposes and shall not impede any personal allowances as established by NMSA 1978, Sections 26-2C-1 to 26-2C-42.

CANNABIS-DERIVED PRODUCTS

A product, other than cannabis itself, that contains or is derived from cannabis, as regulated by NMSA 1978, Sections 26-2C-1 to 26-2C-42.

CANNABIS ESTABLISHMENT

A cannabis establishment means:

1. A cannabis testing laboratory;
2. A cannabis manufacturer;
3. A cannabis producer;
4. A cannabis retailer;
5. A cannabis research laboratory;
6. A vertically integrated cannabis establishment
7. A cannabis producer microbusiness; or
8. An integrated cannabis microbusiness.

CANNABIS RETAIL

A retail sales establishment licensed by the State to sell cannabis under NMSA 1978, Sections 26-2C-1 to 26-2C-42. Retail establishments selling cannabis solely for consumption by users with a medical card issued by the State under NMSA 1978, Sections 26-2B-1 to 26-2B-10 (the Lynn and Eric Compassionate Use Act) are considered general retail and regulated by this definition. Commercial on-site consumption is considered an incidental activity of cannabis retail.

CANNABIS CULTIVATION

A facility at and in which cannabis is grown, harvested, dried, cured, or trimmed and includes the cultivation of cannabis plants, transporting of unprocessed cannabis crops, selling cannabis crops wholesale only to State licensed cannabis retail establishments, and which also includes the testing of only unprocessed cannabis products.

CANNABIS-DERIVED PRODUCTS MANUFACTURING

A facility for the processing, including but not limited to extraction, refinement, isolation, or packaging of a product other than cannabis itself, which contains or is derived from cannabis, including but not limited to concentrates, cannabis infusions, edible products, ointments, and tinctures.

CANNABIS MICROBUSINESS

An establishment licensed by the State as an Integrated Cannabis Microbusiness or Cannabis Producer Microbusiness, as defined by NMSA 1978, Sections 26-2C-1 to 26-2C-42.

ON-SITE CONSUMPTION

The commercial cannabis activity of smoking, vaporizing, and/or ingesting of cannabis or cannabis products in a cannabis consumption area licensed by the State. Commercial on-site consumption is considered an incidental activity of cannabis retail. See Cannabis Retail.

CHECK CASHING/ PAYDAY LOAN ESTABLISHMENT

Any establishment whose primary purpose is to provide cash advances, payday loans, payday advances, and similar services. It does not include a state or federally chartered bank, saving association, credit union, or industrial loan company, retail seller engaged primarily in the business of selling consumer goods that cashes checks or issues money orders as an incidental service to its main purpose or business and which is offered as a service to customers.

CODE ENFORCEMENT OFFICER

An appointee of the Town Council who shall administer the provisions of this Ordinance.

COLLECTOR STREET

A street that serves as a connection between a major or secondary thoroughfare and several minor streets. The term includes the principal entrance streets of a residential development and streets for major circulation within such a development.

COMMISSION

The Town of Peralta Commission.

COMMON AREA

An area inside a housing development that is owned by all residents or by an overall management structure which charges each tenant for maintenance and upkeep.

CONDITIONAL USE

One of those uses enumerated as conditional uses in a given zone district. A permit for such use shall be granted upon approval by the Commission. A conditional use permit shall be either permanent or renewable.

CONTAMINATION

The presence of any harmful substance which is likely to unreasonably injure human health, animal or plant life, property, or public welfare.

CONTIGUOUS

Abutting or touching and/or separated by nothing more than a ditch, canal, or right-of-way.

DAY-CARE FACILITY

An establishment or facility which has the primary function of providing care, services and supervision to children.

DEVELOPMENT

Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DWELLING, MULTIPLE

A structure containing two (2) or more dwelling units.

DWELLING SINGULAR

A dwelling unit which is not physically connected to any other dwelling units.

DWELLING UNIT

Any structure or part of a structure intended for human occupancy and containing one or more connected rooms and a single kitchen designed for and occupied by no more than one family for living and sleeping purposes. A dwelling unit may include a mobile home, a modular housing unit, manufactured house, site-built house or planned residential development.

DWELLING UNIT, CONVENTIONAL

A single-family detached dwelling unit which is installed on a permanent foundation and which is either:

1. A site-built unit constructed in accordance with the standards of the New Mexico Uniform Building Code; or
2. A multi-section manufactured home or modular home that is a single-family dwelling with a heated area of at least 36 feet by 24 feet and at least 864 square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act (NMSA 1978, Chapter 60, Article 14) and with the regulations made pursuant thereto relating to permanent foundations.

DWELLING UNIT. CARETAKER

The dwelling unit of a person who takes care of the property of an owner in the owner's absence. A caretaker dwelling unit shall allow for spouses and dependent children. The caretaker dwelling unit shall be within one of the structures located on the lot, or it may be a separate structure, mobile home/manufactured home, or modular unit.

EASEMENT

Rights granted to public utilities for ingress and egress to serve water, sewer, telephone/cable, gas and electric lines and the right granted to a landowner for ingress and egress to property by either purchase, deed, or adverse possession or any other legal means.

EGRESS

The action of going out or leaving the place, exit.

FAMILY

One (1) or more persons occupying a dwelling unit, provided that unless all members are related by blood, marriage, adoption, or legal assignment, no such family shall include more than five (5) persons.

FAMILY CARE FACILITY

An occupied dwelling unit in which a person provides, for remuneration, care for at least five children but not more than six children, provided that no more than two of those children be under the age of two, on a regular basis for fewer than 24 hours per day. The resident provider's children who are age six or more shall not be counted for this definition.

FENCE

A structure, other than a building, which serves as a barrier and is used as a boundary or means of protection or confinement. This includes a masonry fence or wall and privacy fence.

FORTUNE TELLERS

Fortune tellers, psychics, clairvoyants, palmists, and similar trades.

FLOOR AREA

Total gross area of all floors of a building, expressed in square feet measured from the outside surface of exterior walls.

FLOOR AREA RATIO

The relationship of the floor area to the lot area, computed by dividing the floor area by the lot area.

FRONTAGE

A distance measured along a roadway right-of-way line.

GALVANIZED STEEL

A metal panel coated with zinc or corrosion resistance material.

GARAGE OR YARD SALE

A sale of used household or personal articles held on the seller's premises.

GOVERNING BODY

The Town of Peralta Council.

GRADE

The average elevation of the finished ground level at the center of all walls of a building or all sides of a structure.

GROUNDWATER

Water found beneath the land surface in a saturated zone.

GUEST ROOM

A room or a group of rooms forming a single habitable unit which is located within the walls of a dwelling unit, and which is used or intended to be used for sleeping and living, but not for cooking or eating purposes, and which is rented individually as a unit.

HARDSHIP

To cause privation or suffering.

HAZARDOUS MATERIALS

Substances of the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or as regulated under Subtitle C of the Federal Resource Conservation and Recovery Act (RCRA).

HAZARDOUS WASTE

Materials that are corrosive, flammable, reactive or toxic.

HEIGHT

When applied to a building, the vertical distance from the finished lot grade to the highest point of the coping of a flat roof, or the deck line of a mansard roof or the average height between the plate and the ridge of a gable, hip, or gambrel roof, or to the highest point of any other roof style not mentioned in this definition.

HOME OCCUPATION

A business or commercial activity which is conducted within a dwelling unit or an accessory structure within a residential zone district, and which is clearly secondary to the residential use of the premises.

INOPERABLE MOTOR VEHICLE

Any motor vehicle which is incapable of being propelled under its own power.

INGRESS

The action of going in or entering. Entry, entrance, access.

KENNEL

1. **COMMERCIAL KENNEL** Any building, buildings or land designed or arranged for boarding dogs, cats, and other household pets, and where grooming, breeding, boarding, training or selling animals is conducted in the Commercial Zone (C-1);
2. **HOBBY KENNEL** Any building, buildings or land designed or arranged for housing dogs, cats, and other household pets belonging to the property resident in all residential zones (R-A, R-R, and R-N).

KITCHEN

A room or other place equipped with any combination of the following: a stove/oven, refrigerator, small cooking devices, a sink, where food may be stored or prepared.

LOCALIZED STORMWATER

Surface water deposited on a particular area of land by direct precipitation and not by an overflow of surface waters from other land areas.

LOCAL STREET

A street of relatively short length that provides direct access to a limited number of contiguous residential properties designed to discourage use by through traffic.

LOT

An area of land, described by metes and bounds, recorded and filed in the Valencia County Clerk's office in accordance with appropriate laws and ordinances. Such lot shall have frontage on a dedicated public right-of-way or on an approved private roadway for ingress and egress.

LOT AREA

The area contained within the boundary lines of the lot.

LOT CORNER

Any lot bordering on two (2) or more streets at their intersection.

LOT, DOUBLE FRONTAGE

Any lot bordering on two (2) parallel or approximately parallel streets.

LOT LINE, FRONT

The boundary line of a lot bordering on a street or public right-of-way.

LOT LINE, REAR

The boundary line of a lot which is opposite and most distant from the front lot line and does not connect to the front lot line.

LOT LINE, SIDE

Any lot boundary which is not a front lot line or a rear lot line.

MANUFACTURED HOUSING AND/OR MOBILE HOME

A transportable structure, at least fourteen (14) feet in width and sixty (60) feet in length, and at least eight-hundred-forty (840) square feet, built to be towed on its own chassis, and designed to be used as a movable dwelling unit for connection to permanent utilities. A manufactured housing unit shall be certified as meeting the National Manufactured Housing Construction and Safety Standards. Manufactured housing or Mobile Home does not include recreational vehicles, or modular or premanufactured homes that are built to the applicable standards of the New Mexico Housing Act (60-14-1 et seq. NMSA 1978).

MANUFACTURED HOUSING OR MOBILE HOME PARK

An area of land on which space is leased or rented for occupancy for thirty (30) days or more by manufactured housings and/or Mobile Home(s), and which contains permanent facilities and services for the use of the manufactured housing and/or Mobile home occupants.

MEDICAL USE OF CANNABIS ESTABLISHMENT

Any facility, building, space, or grounds licensed for the production, possession, testing, manufacturing, or distribution of cannabis, concentrates or cannabis-derived products.

METAL INTAKE/ RECYCLING CENTER

Any business engaged in purchasing or otherwise acquiring for sale or barter any material such as old iron, copper, brass, lead, zinc, tin, aluminum or other metals, metallic cable, wire, rope, bottles, rubber, batteries, e-scrap or other like material.

MODULAR STRUCTURE

Any structure built for use of occupancy by persons or property, whether or not designed to be placed on a permanent foundation. Modular structures include factory- built buildings and subassemblies for manufactured residential and commercial units, modular homes and pre-manufactured homes. Modular structures do not include no assembled component parts that are subject to all permit and inspection requirements, or to manufactured housing structures that are subject to federal regulation as per NMAC § 14-12-3.7. K

MOTOR VEHICLE

A vehicle (such as, but not limited to, a car, truck, or motorcycle) that is powered by a motor and was at any time designed to carry passengers.

MOTOR VEHICLE SALES LOT

Any lot or parcel of land where a dealer sells new/used/consignment motor vehicles.

MULTI-SECTION MANUFACTURED HOME OR MODULAR HOME

A single-family dwelling with a heated area of at least 36 feet by 24 feet and at least 864 square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act (NMSA 1978, Chapter 60, Article 14) and with the regulations made pursuant thereto relating to permanent foundations.

NATIONAL FLOOD INSURANCE PROGRAM

Federal program promulgated by the National Flood Insurance Act of 1968 and the Flood Protection Act of 1973.

NONCONFORMING USES. LOTS. OR STRUCTURES

A structure or use of a structure or land which does not conform to the regulations of this Section, and which lawfully existed on the effective date of those regulations with which it does not conform.

OVERLAY ZONE DISTRICT

An overlay zone district is created to identify a special resource or development area and to adopt new provisions that apply in that area in addition to the provisions of the underlying zone district. The provisions of an overlay zone district can be more restrictive or more expansive than those contained in the underlying zone district. An overlay zone district can be coterminous with existing property boundaries or contain only parts of one or more properties and may extend over more than one zone district.

OVERLAY ZONE. WELLHEAD PROTECTION

An area designated by the Town of Peralta to protect the groundwater source of municipal water supply wells from contamination originating from human activities.

OWNER-OCCUPIED

A dwelling occupied by a person or persons who shall own at least 51% of said dwelling unit.

PARKING OFF STREET

An area on a lot used for required parking of motor vehicles as regulated by this Ordinance.

PAWNBROKER

An individual or business (pawnshop or pawn shop) that offers secured loans to people, with items of personal property used as collateral.

PERMISSIVE USE

A specific use allowed in a particular zone district.

PERSON

Any individual, estate, trust, receiver, association, club, corporation, company, firm, or other entity.

PLANNING & ZONING (P & Z) COMMISSION

The designated Planning & Zoning (P & Z) Commission of the Town of Peralta. The Town Council shall serve as the P & Z Commission until such time as the P & Z Commission is appointed by the Town Council.

PREMISES

Any lot or combination of contiguous lots held in single ownership, together with the development thereon.

PRE-INCORPORATION

An allowable use or existing structure that existed prior to the Incorporation of the Town of Peralta.

RECREATIONAL VEHICLE

A structure which is designed or used as temporary living quarters for recreation, camping, or travel, and which may be a self-propelled motor vehicle or designed to be towed or mounted on a motor vehicle.

REGULATED BUSINESS

Any business requiring additional regulation.

RIGHT-OF-WAY

A dedicated and accepted public land deeded to the Town of Peralta, reserved by plat, or otherwise acquired by the Town, county, or state for the use of the public for the movement of people, goods, and vehicles.

ROADWAY

That portion of public right-of-way or private way or thoroughfare which is primarily devoted to vehicular use.

SALVAGE OR SCRAP FACILITY

A salvage yard, scrap yard, wrecking yard, junkyard, dismantler or any entity in the business of outdoor storage or deposit for storing, keeping, processing, buying or selling disused vehicles, disused machinery or other disused goods or materials for resale.

SCRAP TIRE

A tire that is no longer suitable for its originally intended purpose because of wear, damage, defect or obsolescence.

SERVICE BAY

Any enclosed work area for the maintenance or repair of vehicles, comprising an average floor area of 420 square feet per bay to accommodate both service and access requirements.

SETBACK

The required distance between every building or structure (fences, walls, and signs excepted) and a boundary line of the lot upon which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure.

SETBACK, FRONT

The minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, bordering on a roadway.

SETBACK. FRONT

The minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, bordering on a roadway.

SETBACK, REAR

The minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, which is opposite and most distant from a roadway and does not intersect with a roadway.

SETBACK, SIDE

The minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, which intersects a roadway.

SIGN

A structural device using graphic symbols or written messages to communicate information to the public by directing attention to a product, place, activity, person, institution, or business.

SKID ROW

A high density of businesses that may have the potential to create adverse effects on the surrounding area and community.

SMOKE SHOP

Any business devoting more than 15% of the total floor space for display for sale of smoking or tobacco paraphernalia or whose gross dollar volume of business is over 25% from sales of smoking or tobacco paraphernalia.

SOLID FENCE

Block, ribbed metal panels, adobe, solid vinyl wood panel or other fencing that has 0% open area.

SPECIAL USE PERMIT

A permit approving uses which require special consideration.

STRUCTURE

Anything constructed, placed, or erected above ground level which requires location on the ground or is attached to something having a location on the ground, but not including a tent,

vehicle, vegetation, public utility pole or line, signs or fences. A mobile home is a structure, with or without wheels, when located on any lot.

SUBDIVISION REGULATIONS

Subdivision Regulations for the Town of Peralta, New Mexico which apply for all divisions of land (lot-split).

SUBSTANTIAL IMPROVEMENT

1. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceed 50% of the market value of the structure either:
 - a. Before the improvement or repair is started; or
 - b. If the structure has been damaged and is being restored, before the damage occurred.
2. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
 - a. Any project for improvement of a structure to comply with existing state or Local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
 - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

TIRE SHOP

Any entity conducting sales or services of tires, including, but not limited to, changing, replacing, balancing, aligning or otherwise servicing tires or the sales of new or used tires.

TOWN

The Town of Peralta, Valencia County, New Mexico

Town Council

The governing body of the Town of Peralta.

Town Clerk

The municipal clerk of the Town of Peralta as so designated by Town Council.

TRAILER

A nonmotorized vehicle designed to be pulled behind a motor vehicle.

UNDERGROUND STORAGE TANK

A single tank or combination of tanks, including underground pipes connected thereto, which are used to contain an accumulation of fuels, hazardous materials, or other regulated substances, and the volume of which, including the volume of the underground pipes connected thereto, is 10% or more beneath the surface of the ground. This definition does not include septic tanks.

VARIANCE

A relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, due to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary hardship. As used in this Ordinance, a variance may be authorized **only** for area, height, dimension, setback, and off-street parking requirements. Financial gain or loss shall not be the determining factor in deciding a variance.

VEHICLE

A mechanical device for transporting people or property on a road or highway with the exception of devices moved by human or animal power.

VEHICLE REPAIR, LIGHT

Checking and topping off of fluids (not changing fluids), replacement of bulbs and fuses, checking and adjusting of tire pressure (not changing of tires), charging of batteries (not changing), windshield repair.

VEHICLE REPAIR, MAJOR

Repairs that produce relatively high levels of noise, vibration and fumes and, more specifically, include the following types of repairs to motor vehicles and repairs of a similar nature with respect to impacts on nearby properties: air conditioning service, brake repair/replacement, engine oil changes, fluids replacement, exhaust system repair/replacement, auto body customizing, auto body sheet metal/fiberglass/plastic repair/replacement, auto body prepping/painting/media blasting, chassis fabrication/repair, complete engine/transmission rebuild and replacement.

VEHICLE REPAIR, MINOR

Repairs and servicing that will produce relatively low noise, vibration and fumes and, more specifically, include the following types of repairs to motor vehicles: shock absorber/spring/strut replacement, tire balancing/installation, wheel alignment, windshield/glass replacement, tune-ups, diagnostics, emission control service.

VISUAL BARRIER FENCE

Wood panel fencing, chain-link with slats, mesh fencing or any other fencing which provides 25% or less open area per square foot of fencing.

WAREHOUSING OPERATIONS

Includes use of any building, structure or other protected enclosure in which goods, materials or agricultural products are or may be stored.

WELL HEAD

The structural element of a constructed water well which is the source of a groundwater supply system.

ZONE DISTRICT

means a mapped area of the Town of Peralta where regulations governing the use of building, structures, and land are uniform.

ZONE MAP

A map of the Town of Peralta that delineates the zone district boundaries within the Town boundaries.

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SECTION 5. GENERAL PROVISIONS:

- A. **Access to structures**. All structures shall be located on lots in a manner which will provide safe and convenient access for servicing, fire protection, and any required off-street parking or loading.
- B. **Accessory Buildings**. One (1) or more accessory buildings may be placed on a lot provided that no accessory building will exceed the floor area of the building, which is the principal use on the premises, and further provided that no accessory building will be located closer than ten (10) feet from any other buildings on contiguous lots.
- C. **Building and Structure Height**. No building or structure shall exceed thirty-five (35) feet in height. However, this height limitation shall not apply to water tanks, wind generators, antennas, and dish receivers, solar collectors, and other such accessory objects, but excluding signs.
- D. **Cannabis Establishment and Retail**. These uses are prohibited within 300 feet of any church, school, or child day care facility.
1. Cannabis Establishment and Retail is permissively allowed in any commercial zone, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other cannabis retail uses or facilities.
 2. Hours of operation for any Cannabis establishment or retail use and for onsite cannabis consumption use shall only be between the hours of 8:00 AM to 10:00 PM, on any day of the week.
 3. For the purposes of these provisions, all distance measurements for a cannabis establishment or retail use shall be from the lot boundary lines line that include the cannabis retail establishment to be licensed by the State as a “licensed premises” as defined by NMSA 1978, Sections 26-2C-1 to 26-2C-42.
 4. Establishments with a valid license from the State under the medical cannabis program as of April 1, 2022, pursuant to NMSA 1978, Sections 26-2B-1 to 26-2B-10 (The Lynn and Eric Compassionate Use Act) are entitled to continued uninterrupted operations and are allowed permissively as a cannabis retail use after issuance of a license(s) from the State under NMSA 1978, Sections 26-2C-1 to 26-2C-42.
 5. If located within 500 feet of another Cannabis establishment or retail use, or location for which there is a pending application for a cannabis establishment or retail use, this use shall require Conditional Use approval pursuant to Section 19 of this Zoning Ordinance. Nothing herein prohibits multiple licenses from operating from a single “licensed premises” as defined by NMSA 1978, Sections 26-2C-1 to 26-2C-42.
 6. Cannabis Retail uses, whether part of microbusiness or any other type of cannabis uses are prohibited in any residential zone district.
 7. All storage or display areas shall be inside fully enclosed portions of the retail use building(s).

8. If any cannabis retail establishment is licensed by the State for commercial on-site cannabis consumption, smoking, or vaporizing is proposed to occur on-site, a ventilation odor control plan and a site plan approved by the Town is required pursuant to the Conditional Use requirements of Section 19 of this Zoning Ordinance. On site consumption shall be inside a fully enclosed building.
9. Building setbacks shall be no less than thirty (30) feet from any property boundary line.

E. **Cannabis Cultivation**. This use is prohibited within 300 feet of any church, school, or child day care facility.

1. Cannabis cultivation is allowed as a Conditional Use under Section 19 of this Zoning Ordinance in any residential zone, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.
2. All distance measurements for this use shall be from the lot boundary lines that include the cannabis cultivation establishment to be licensed by the State as a “licensed Premises” as defined by Sections NMSA 1978, 26-2C-1 to 26-2C-42.
3. Establishments with a valid license from the State under the medical cannabis program as of April 1, 2022, pursuant to NMSA 1978, Sections 26-2B-1 to 26-2B-10 (The Lynn and Eric Compassionate Use Act) are entitled to continued and uninterrupted operations and are allowed as a Conditional Uses after issuance of a license(s) from the State under NMSA 1978, Sections 26-2C-1 to 26-2C-42.
4. Except in a Commercial zone, all activities of this use must be conducted within a fully enclosed building unless Conditional Use approval is obtained pursuant to Section 19 of this Ordinance to conduct specific activities outside of the fully enclosed portions of a building in any residential zone.
5. An incidental storage area is allowed outside of the fully enclosed portions of a building but must be screened from view from each lot, property boundary line.
6. A site plan and odor control plan for any cannabis cultivation use approved by the Town is required (Site Development Plans), Section 17 of this Zoning Ordinance.
7. Building setbacks shall be no less than thirty (30) feet from any property boundary line.
8. Subject to the availability of land as further defined below, in any Residential Zone, this use shall not exceed 10,000 square feet of gross building floor area, and all activities shall be conducted within the fully enclosed portions of a building:
 - a. This use shall not exceed 5,000 square feet of gross building floor area if the lot on which this use is located is less than one (1) acre in gross land area;

- b. This use shall not exceed 7,500 square feet of gross building floor area if the lot on which this use is located is less than two (2) acres of gross land area;
- c. This use shall not exceed 10,000 square feet of gross building floor area if the lot on which this use is located is less than three (3) acres of gross land area.

F. **Cannabis-derived Products Manufacturing**. This use is prohibited within 300 feet of any church, school, or child day care facility.

- 1. Cannabis-derived products manufacturing is permissively allowed only in a Commercial zone district or in a Special Use zone district provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.
- 2. This use is prohibited in any Residential zone district including in a R-A (Agricultural Residential), a R-R (Rural Residential) zone district, and a R-N (Neighborhood Residential) zone district.
- 3. For the purposes of this Zoning Ordinance, all measurements for this use shall be from the lot boundary lines that includes an establishment licensed by the State as a “licensed premises” as defined by Sections NMSA 1978, 26-2C-1 to 26-2C-42.
- 4. All activities of this use shall be conducted within the fully enclosed portions of a building. An incidental storage area is allowed outside of the fully enclosed portions of a building but shall be screened from view from each property boundary line.
- 5. A Site Development Plan under Section 17 of this Ordinance and an odor control plan approved by the Town Planning and Zoning Commission is required.
- 6. In addition, the following standards shall apply to this use:
 - a. This use shall not exceed 10,000 square feet of gross building floor area, and except for storage as defined above, all manufacturing activities shall be conducted within the fully enclosed portions of a building.
 - c. The use of hazardous materials as defined by federal regulation is prohibited.
 - d. Building setbacks shall be no less than thirty (30) feet from any property boundary line.

G. **Home Occupations**. Any activity defined by this Ordinance as a home occupation shall be subject to the following requirements:

- 1. Only members of the residing family and no more than one (1) other person shall be engaged in the home occupation;
- 2. There shall be no exterior indication of the home occupation except for one non-illuminated sign that is no larger than five (5) square feet in area;

3. Exterior storage of materials and equipment necessary for the home occupation is allowed only if is surrounded by a solid wall or fence sufficient to provide a visual barrier to contiguous residential properties;
4. Not more than twenty-five (25) percent of the floor area of the dwelling unit shall be devoted to the home occupation, nor more than eight-hundred (800) square feet floor area of an accessory building; and
5. No equipment of process shall be used in a home occupation which discharges hazardous materials or creates a nuisance such as noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses, off the premises.

H. **Manufactured Housing Installation and Placement.** Installation: Regardless of any setback regulations provided in this Ordinance, no manufactured housing units shall be located within twenty (20) feet of any other dwelling unit. Manufactured housing shall be limited to residential use only. Within thirty (30) days following occupancy, manufactured housing shall be connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored in accordance with regulations promulgated by the Manufactured Housing Act of New Mexico (60-14-1 et. Seq. NMSA 1978. All mobile homes and manufactured housing shall be placed on a permanent concrete and continuous frost-protected perimeter as regulated by the New Mexico Construction Industries (NMCID) Manufactured Housing Division and shall be compatible and harmonious with existing structures in the vicinity. Placement: No manufactured housing unit will be allowed placement without obtaining all applicable permits, i.e., Septic Approval from New Mexico Environment Department (NMED), Town approved foundation plan, Town approved site plan and set-backs, rental agreement from landowner (if applicable), Flood Plain Certificate and Moving Permit shall be obtained from the Valencia County Flood Plain Manager. A check off list is available at the Town Office. Manufactured housing units will follow all applicable permit requirements on NM CID Manufactured Housing Division, and Town of Peralta zoning restrictions and in some cases, may need approval of the Town of Peralta P & Z Commission. Fines of up to \$500.00 per incident may be imposed, for property owner, mobile homeowner, transporter and/or both/all, if these requirements are not met.

I. **Political Signs.** Signs relating to a political campaign prior to an election may be permitted on any private and/or authorized lot provided such signs shall not be placed more than thirty (30) days prior to the official date of the election, excluding early voting dates and shall be removed within five (5) days following the election. If after five (5) days the signs are still up, town personnel will take down the sign(s) and store them and will fine the candidate \$50.00 per sign remaining.

J. **Business Signs and Political Signs.** The purpose of this ordinance is to create the legal framework for a comprehensive and balanced system of street and residential signs that will preserve the right of free speech and expression, provide an easy and pleasant communication between people and their environment, and avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of this ordinance to authorize the use of signs that are:

1. Appropriate to the activity that displays them;

2. Expressive of the identity of individual activities and the community;
 3. Legible in the circumstances in which they are seen;
 4. Maximum size of 4' x 8', including political signs;
 5. No higher than 35 feet in the air to the top of the sign;
 6. Not obstructing the visibility of traffic in any manner; and
 7. Not on a property without permission of the property owner.
 8. Billboards that existed prior to incorporations will be allowed. No new billboards shall be allowed.
- K. **Refuse Disposal.** All persons owning or occupying lands within the Town shall be responsible for the sanitary conditions of their premises. No person shall permit or cause accumulation of refuse, garbage, trash, or other solid waste which may become hazardous to public health or safety, or which obstructs traffic, drainage, or access to structures.
- L. **Storm water Retention.** Site design on all substantially improved or developed lots shall ensure that storm water runoff will not adversely affect neighboring properties. Runoff as a result of development or site improvements shall be retained locally.
- M. **Vision Clearance.** At all road or street intersections, no obstructions to view shall be placed or maintained between two (2) feet and eight (8) feet above the roadway level in a triangular space at the road or street corner on a corner lot. Such triangular space shall be bounded by the corner property lines and a diagonal line connecting points that are twenty-five (25) feet in distance from the property line intersection.
- N. **Recreational Vehicles.** Recreational vehicles (RVs) shall not be used as a primary residence. The Planning and Zoning Commission may consider the temporary use of a Recreational Vehicle only while a principal home is being constructed.

SECTION 6. ZONE DISTRICT BOUNDARIES:

- A. **Districts.** In order to carry out the provisions of this Ordinance, the Town of Peralta is hereby divided into zone districts which are described in the following sections. The regulation prescribed in this Ordinance shall apply within the corporate limits of the Town of Peralta.
- B. **Zoning Map.** The boundaries of all districts within the Town of Peralta are hereby established as shown on the PERALTA ZONING MAP which shall be made a part of this Ordinance as is fully described herein.
- C. **Interpretation.** Where due to the scale, lack of detail, or illegibility of the official PERALTA ZONING MAP, there is any uncertainty, contradiction, or conflict as to the intended location of any zone district boundaries shown therein, interpretations

concerning the exact location of zone district boundary lines, shall be determined by the Town Council with the advice of the Planning & Zoning (P & Z) Commission.

- D. Multiple-Zoned Lots. Circumstances may justify the need to designate more than one (1) zone district on a single lot. In such cases, zone district boundaries with a multiple-zoned lot shall be more fully described in the PERALTA ZONING MAP by showing any necessary dimensions of zone districts in relation to existing property lines.
- E. Annexation. Any request or proposal of territory to the Town of Peralta shall be filed and processed concurrently with an application for an amendment to the PERALTA ZONING MAP as provided in this Ordinance. Zoning within annexed areas must be consistent with contiguous zoning or must be in accordance with the Comprehensive Plan of the Town of Peralta.

SECTION 7. (R-A) AGRICULTURAL RESIDENTIAL DISTRICT:

- A. Intent. The purpose of this zone district is to maintain and preserve agricultural activities, and to provide for accompanying residential uses which are compatible with agricultural activities. Residential density shall not exceed one (1) dwelling unit per minimum five (5) acre lot, unless otherwise provided in this Ordinance.
- B. Permissive Uses. Any of the following permissive uses are allowed in this one district:
 - 1. One (1) singular dwelling unit per lot;
 - 2. Accessory uses and structures;
 - 3. Agricultural activities, excluding cannabis cultivation, including the cultivation and harvesting of croplands, and the raising and management of livestock and fowl in accordance with the following requirements:
 - a. Confinement areas for livestock and fowl shall be constructed and maintained to discourage the concentration and breeding of insects and rodents which are detrimental to human health;
 - b. Surface water runoff shall be contained on site and controlled to avoid overflow into irrigation ditches and surrounding property;
 - c. Animal waste shall be properly disposed to prevent contamination of ground water and surface water;
 - d. The display and sale of agricultural products shall be confined to a temporary stand located on the premises; and
 - e. Yard sales limited to no more than 3 consecutive days per calendar month.
- C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the P & Z Commission in accordance with this Ordinance:
 - 1. Home occupations

2. Kennels and animal grooming parlors;
 3. Greenhouses used for commercial business (excluding temporary hoop houses), nursery or landscaping services;
 4. The processing and packaging of goods from agricultural products and/or agricultural by-products;
 5. Cannabis Cultivation subject to the General Provisions, Section 5.E.
- D. District Standards. Subject further to the specific regulatory provisions for setbacks in Section 5, the following regulations apply to all land uses in this zone district:
1. Minimum lot size shall be five (5) acres;
 2. Setbacks shall be maintained as follows:
 - a. Front setback shall be no less than thirty (30) feet;
 - b. Side setback shall be no less than ten (10) feet;
 - c. Rear setback shall be no less than twenty (20) feet; and
 3. Off-street parking spaces as required by this Ordinance.

SECTION 8. (R-R) RURAL RESIDENTIAL ZONE:

- A. Intent. The purpose of this zone district is to provide for the development of Rural Residential areas consisting of singular dwellings and certain other uses which are compatible to the rural character of this district. Residential density shall not exceed one (1) dwelling unit per minimum two (2) acre lot, unless otherwise provided in this Ordinance.
- B. Permissive Uses. Any of the following permissive uses are allowed in this one district:
1. One (1) singular dwelling unit per lot;
 2. Accessory uses and structures, or uses, subject to the provisions of this Ordinance;
 3. Family Day Care Home or Family Care Facility, and veterans, seniors and special needs facilities provided the activity is licensed by the State of New Mexico as such;
 4. Storage of a recreational vehicle provided it is not used as additional living quarters and is not permanently connected to utilities. Recreational vehicles shall not be stored within the front setback of a lot for a time period exceeding twenty-four (24) hours.

5. Public utility structure, provided its location is based on appropriate master plan that has been approved by the Town Council;
6. Public parks and recreation areas;
7. Agricultural activities, excluding Cannabis Cultivation, subject to the requirements of Section 7.B.3
8. Yard sales limited to no more than 3 consecutive days per calendar month.

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the P & Z Commission in accordance with this Ordinance:

1. Boarding, rooming, or lodging house;
2. Home Occupation, subject to provisions of this Ordinance;
3. Church or other religious building used as a place of worship; and
4. School, public, or private, with incidental facilities, provided that a development plan for the site has been approved by the Town Council; and
5. Subject to reasonable conditions set by the P&Z, including, but not limited to, adequate sewer and approved utilities, a temporary second residence for special circumstances only for the care of elderly relative(s) approved only by the P&Z, subject to a duration of time not exceeding five-years, which may be extended by the P&Z under extenuating circumstances. The temporary second residence, under any circumstances shall not utilized as a rental property or for any other purpose or as a permanent residence.
6. Cannabis Cultivation subject to the General Provision, Section 5.E.

D. District Standards. Subject further to the specific regulatory provisions for setbacks in Section 5, the following regulations apply to all land uses in this zone district:

1. Minimum lot size shall be two (2) acres;
2. Setbacks shall be maintained as follows:
 - a. Front setback shall be no less than thirty (30) feet;
 - b. Side setback shall be no less than ten (10) feet;
 - c. Rear setback shall be no less than ten (10) feet; and
3. Off-street parking spaces as required by this Ordinance.

SECTION 9. (R-N) NEIGHBORHOOD RESIDENTIAL ZONE:

- A. Intent. The purpose of this zone district is to accommodate a suburban residential density of development and limited nonresidential uses which are compatible to the residential character of this district. Residential density shall not exceed one (1) dwelling unit per one (1) acre lot, unless otherwise provided in this Ordinance.
- B. Permissive Uses. Any of the following permissive used are allowed in this zone district:
1. All uses permissive in the R-R zone district.
- C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the P & Z Commission in accordance with this Ordinance:
1. All uses conditional in the R-R zone district;
 2. Medical clinic or dental office;
 3. Laundromat;
 4. Personal services (barber/beauty shop, physical therapy, etc.)
- D. District Standards. Subject further to the specific regulatory provisions for setbacks in Section 5, the following regulations shall apply to all land uses in this zone district:
1. Minimum lot size shall be one (1) acre;
 2. Setbacks shall be maintained as follows:
 - a. Front setback shall be no less than thirty (30) feet;
 - b. Side setback shall be no less than ten (10) feet;
 - c. Rear setback shall be no less than ten (10) feet; and
 3. Off-street parking spaces as required by this Ordinance.

SECTION 10. (C-B) COMMERCIAL BUSINESS ZONE.

- A. Intent. The purpose of this zone district is to provide for major commercial and business activities in the community. This zone district establishes a commercial corridor and includes highway-related commercial activities, offices, entertainment facilities, retail sales, and service providers. It is further intended that a special character of development in this zone district is promoted and maintained along NM Highway 47, particularly building surfaces facing NM Highway 47 in this zone district shall be constructed of wood, stucco, brick, stone, adobe, or similar materials, rather than metal, plastic siding,

mirrored glass curtain walls, and other such materials that are not characteristic of the community.

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

1. All uses permissive in the R-N zone districts;
2. Retail Commercial establishments;
3. General and professional offices;
4. Business and personal services; and
5. Banking and financial services;
7. Cannabis Retail subject to the General Provisions, Section 5.D;
8. Cannabis Cultivation, subject to the General Provisions, Section 5.E;
9. Cannabis Manufacturing subject to the General Provisions, Section 5.F.

C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the P & Z Commission in accordance with this Ordinance:

1. All uses conditional in the R-N, R-R and R-A zone districts:
2. Hotels and motels;
3. Eating and drinking establishments, including mobile food trucks if they comply with all Federal and State Regulations;
4. Funeral homes and crematories if they comply with Federal and State Regulations;
5. Government facilities;
6. Motor vehicle services, including commercial garages, provided that:
 - a. Any repair work shall be conducted entirely within an enclosed building;
 - b. Outdoor storage of materials shall be enclosed by a solid wall or fence sufficient to provide a visual barrier;
 - c. Outdoor storage of vehicles awaiting repair and/or delivery shall be limited to no more than three vehicles per enclosed service bay;
7. Kennel, veterinary hospital, animal grooming parlor, or pet sales store;
8. Small scale processing operations associated with a commercial business establishment, provided that all processing activities are conducted within a

building and shall not produce off-site impacts which would be disruptive to contiguous properties or harmful to the environment;

9. Construction contractors, waste removal services, and building trades, provided that the outdoor storage areas are enclosed on all sides by a solid v wall or fence at least six (6) feet high;
10. Self-storage mini warehouses provided that there are adequate driveways to accommodate vehicular access to individual storage units;
11. Yard Sales, Flea Markets, and Recycle facilities;
12. Ammunition and/or firearm sales.

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

1. All new development and extensive redevelopment in this zone district require a site development plan in accordance with this Ordinance, however, specific requirements or components of a site development plan that are deemed unnecessary may be waived by the Town Council;
2. There shall be no minimum lot size; however structural densities shall be in accordance with the water supply well and wastewater treatment standards set by the New Mexico Environment Department.
3. Subject further to the specific regulatory provisions for setbacks in Section 5, setbacks shall be maintained as follows:
 - a. Front setback shall be no less than thirty (30) feet, if structure existed pre-incorporation (was 15 feet);
 - b. Side setback shall be no less than ten (10) feet;
 - c. Rear setback shall be no less than fifteen (15) feet; and
 - d. Corner lot street side setback shall be no less than fifteen (15) feet;
4. Off-street parking space as required by this Ordinance.

SECTION 11. (S-U) SPECIAL USE ZONE.

- A. Intent. This zone district provides for types of developments which required special consideration because of their magnitude, unusual nature, infrequent operations, questionable impact on surrounding property, or other similar reason. The boundaries of this zone district shall be defined as needed on a case-by-case basis and shall be designated by the Town Council following the amendment procedures provided in this Ordinance. Special conditions may be imposed by the Town Council giving consideration to any recommendation by the P & Z Commission. The Town Council may not grant a

zone change for the establishment of a Special Use Zone district unless the following satisfactory provisions have been made:

1. The Intended use is clearly identified in the site plan.
 2. To assure that a compatibility of land uses is maintained in the general area and that the proposed use is not in conflict with the development policies and other elements of the Comprehensive Plan for the Town of Peralta.
 3. To preserve the integrity and character of the area in which the Special Use Zone district will be located, and to preserve the utility of property in contiguous zone districts;
 4. To assure that the Special Use Zone will not become detrimental to the public health, safety, or general welfare of the Town of Peralta.
- B. Plan Requirement. Each application for a Special Use Zone must declare the proposed use for the zone district and must be accompanied by a site development plan as required by this Ordinance.
- C. Removal of Zones. In the event that a use authorized as a Special Use Zone is permanently discontinued for a period of at least ninety (90) days, the Special Use Zone district may be canceled and removed under the provisions for an amendment to this Ordinance. That area delineated by a discontinued Special Use Zone district shall be rezoned to an appropriate zone district as determined by the Town Council following a recommendation by the P & Z Commission.
- D. Designated Uses. A Special Use Zone district may be established only for the following uses designated by the Town Council:
1. Vehicle Dismantling yard, or general salvage operation, provided that:
 - a. All activities are conducted within an enclosed building or within an are enclosed on all sides by a solid wall or fence at least six (6) feet high;
 - b. Inoperative vehicles of salvage materials may not be stacked higher than the required surrounding wall;
 - c. The site for such operation shall not exceed five (5) acres.
 2. Cemetery provided the site shall contain at least two (2) acres.
 3. Fairgrounds, recreational complex, stadium, rodeo ground.
 4. Manufacturing, compounding, processing activities provided that;
 - a. All structures and operations are in compliance with current State and Federal environmental pollution standards;

- b. Outdoor storage of material shall be enclosed by a solid wall or fence sufficient to provide a visual barrier;
 - c. Bulk storage of toxic substances or hazardous materials shall be above ground and contained in a manner approved by the Fire Department and any other appropriate regulatory agencies;
 - d. There shall be no off-site impacts that are disruptive to contiguous properties.
5. Manufactured Housing Park, subject to the following regulations:
- a. A manufactured housing park shall be served by community water and sewer systems and constructed to specification of applicable State or Federal environmental pollution standards;
 - b. Minimum lot size shall be three (3) acres, and the maximum density shall be four (4) manufactured housing units per acre;
 - c. At least two (2) off-street parking spaces per manufactured housing unit are required;
 - d. No manufactured housing units shall be located within thirty (30) feet of any other manufactured housing unit or structure. Any manufactured housing unit shall be at least thirty (30) feet from a public right-of-way and shall be no less than fifteen (15) feet from any property line of the manufactured housing park;
 - e. A common area for recreational use by park residents shall be developed and situated in a central location within the manufactured housing park. A least three-hundred (300) square feet of usable open space shall be designated for the common area per manufactured housing unit or designated space in the manufactured housing park;
 - f. A manufactured housing park shall have at least one entrance drive from a public road or street, and access to individual units shall be from private drives within the manufactured housing park. Private driveways shall be no less than thirty (30) feet in width;
6. Towers (telecommunications, water storage, etc.) shall be in compliance with all Federal and State regulations.

SECTION 12. PERALTA HISTORIC DISTRICT (RESERVED).

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SECTION 13. HIGHWAY 47 DESIGN OVERLAY ZONE

- A. Intent. The purpose of this zone district is to promote and enhance existing and new commercial development along Highway 47, including retail, financial, and personal services.
- B. Designation of Commercial Overlay Zone. The designation of the Commercial Overlay Zone is hereby established under the following criteria:
1. A Commercial Overlay Zone shall be delineated as the geographic area as per the Official Zoning Map of the Town of Peralta dated May 28, 2019.
 2. The Governing Body shall make the final determination, upon recommendation by the Planning and Zoning Commission, regarding whether any particular property is within or outside of any Commercial Overlay Zone.
 3. The Town Zone Map shall be made available for public inspection at the Town Office.
 4. Commercial Overlay Zone regulations shall take effect no later than May 28, 2019; and all noncompliant uses, including any uses holding a certificate of noncompliance, shall cease unless brought into compliance with these regulations. A possible extension of up to six months may be granted at the Planning and Zoning Commission's discretion upon application to the Planning and Zoning Administrator/Officer.
- C. Application. An Engineered Site Development Plan (ESDP) shall be required for all new or redeveloped land use in this zone district.
1. At a minimum, the ESDP shall include the following:
 - a. A written statement explaining the purpose and intent of the development, and a development phase schedule, if appropriate.
 - b. Boundaries and topography of the property to be developed.
 - c. A site map, of sufficient size and scale, showing the proposed location, type, use and size of all structures, setbacks, signs, lighting, on-site parking and loading areas, as required in Section 10, on-site stormwater retention facilities, landscaping, fencing, driveways, traffic and pedestrian circulation routes, and emergency vehicle access. Other information to show compliance with Town Ordinances may be required.
 - d. Details of the engineering design of the on-site parking and on-site stormwater retention facilities shall be included in the ESDP.
 - e. Delineation of proposed dedications and easements for public rights-of-way.

- f. An area map showing the location, type, use and size of all structures on adjacent properties within 200 feet of the proposed development.
 - g. Written documentation showing that the New Mexico Department of Transportation has been notified of the new use if accessing a New Mexico state highway, and its findings.
 - h. Mandatory hook up wastewater system.
2. Deviation or changes from the site plan shall be reviewed by the Planning and Zoning Administrator/Officer for approval before the changes are implemented.

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

- 1. Banking and financial services.
- 2. Business and personal services.
- 3. Commercial kennels, veterinary hospitals, animal grooming parlors, or pet sales stores, provided that:
 - a. All animals shall be retained in a manner that prevents escape of enclosed animals or entry of other animals;
 - b. Animal quarters shall be designed to ensure safe, healthy, sanitary conditions for animals on premises;
 - c. Animal quarters shall be maintained to discourage concentration and breeding of insects and rodents;
 - d. Surface water discharge contamination shall be retained on site;
 - e. Animal waste shall not be allowed to accumulate in amounts that offend or cause a noxious odor. Such material shall be removed within 10 days of official notification from the Town of Peralta;
 - f. Temporary on-site storage of animal waste shall be designed to prevent groundwater or surface water contamination; and
 - g. A solid fence, as defined in Section 4 to provide a visual barrier at least six feet high shall be erected and maintained between the activity and all contiguous residential zone districts uses.
- 4. Construction and maintenance contractors and building trades, including associated storage, equipment sales and services, provided that:
 - a. A solid fence, as defined in Section 4, to provide a visual barrier at least six feet high shall be maintained between the activity and all contiguous properties with the zone district.
- 5. Conventional dwelling units, provided that:
 - a. It complies with the definition of "dwelling unit" in Section 4;
 - b. The dwelling setbacks shall comply with the regulations as set forth in § 10-D-3;
 - c. Nothing in this subsection shall prohibit having both a dwelling and a business on the same lot, or both a business and a dwelling in the same building on the lot; and
 - d. Must hook up to Wastewater System.

6. Food processing activities, in a building under 3,600 square feet, not including a slaughterhouse, provided all state regulations and licensing information is provided to the Town of Peralta Planning and Zoning Administrator/Officer.
7. Fireworks sales allowable in accordance with Fireworks Ordinance 5-5-4.
8. Galleries and museums.
9. Gas stations and other retailers of bulk petroleum products, provided that:
 - a. Dry clean-up of spilled gas and other petroleum products is provided for; and
 - b. There is a spill prevention countermeasure control plan as regulated by EPA and NMED.
10. General and professional offices.
11. Indoor amusement facilities provided Town ordinances for off-street parking and noise regulations are followed.
12. Retail business establishments.
13. Pasture lands, provided that they are in accordance with Section 7-A.

E. Conditional uses. Conditional uses as outlined in SECTION 19 of the Comprehensive Ordinance. All permissive commercial uses shall also be permissible in conjunction with an approved conditional use. Additional reasonable conditions may be required by the Commission as the situation warrants. The following uses shall be allowed in this zone district only upon permit granted by the Commission:

1. Amusement Park, carnival, or circus,
2. Caretaker dwelling unit provided there is no other conventional dwelling unit on the property.
3. Mobile home/manufactured home, provided it meets current installation requirements, or recreational vehicles as a conditional use when used as temporary dwelling unit during construction of a standard site-built dwelling unit or on-site assembly of a modular dwelling unit, in accordance with:
 - a. A development review/building permit shall be obtained within 30 days following issuance of the conditional use permit;
 - b. Active and continuous construction shall begin within 90 days following issuance of the conditional use permit;
 - c. The mobile home/manufactured home shall be removed at the expiration of the conditional use permit; and
 - d. The recreational vehicle shall no longer be used as a residence after expiration of the conditional use permit.

4. Auction house or lot for the purpose of allowing regular public sales on a site designated for such use in which items of merchandise are sold to the highest bidder, excluding animals and/or livestock of any type or nature, provided;
 - a. Storage and/or display areas. Storage and/or display areas shall not occupy more than 40% of the lot where the auctions are to take place;
 - b. Off-street parking. There shall be adequate off-street parking as specified in SECTION 14. Off-street parking within a reasonable distance shall be permitted, subject to approval of the Planning and Zoning Commission, provided written guarantees are given that such off-street parking shall continue to be available for the duration of the conditional use auction permit. Off-street parking and traffic areas shall be clearly designated and separated from the sales area so as not to create traffic or safety hazards, as required by the applicant's safety engineer or qualified expert and reviewed and approved by the Commission;
 - c. Ingress and egress, as defined in Section 4. Adequate and appropriate ingress and egress as defined in Section 4, shall be provided to and from the lot and/or area where the auction is to take place; See Subdivision Regulations Section 13-6-C; and
 - d. Storage, display and items to be auctioned. The storage and/or display of items to be auctioned shall be kept in an enclosed building or in an outside area with the construction of a solid fence on all sides to provide a visual barrier at least six feet in height, as defined in Section 4. No stored materials shall be stacked or arranged above the height of the screen wall or fence. The structure shall be erected and maintained between such storage/display area and contiguous residential lots or a residential zone district, to be approved by the Commission.

5. Mobile home/manufactured home sales lot, including, but not limited to, the sale of new, used or consignment mobile/manufactured homes.
 - a. Separation requirements for display storage of mobile homes/manufactured homes shall be at least eight feet from one another and at least 10 feet from all fencing to allow for safety access. There shall be no dead-end passageways, and passageways will be a minimum of 20 feet in width. Obstructions under any definition within passageways shall not be allowed (25-4.3.1 NFPA Special Provisions, 1994, Life Safety Code);
 - b. A solid fence to provide a visual barrier at least six feet high, as defined in Section 4, shall be erected and maintained between the activity and any contiguous residential use properties.
 - c. On-site customer parking shall be provided as specified in SECTION 14;.
 - d. Parking of semi-tractor trailer rigs used for moving or transporting mobile homes/manufactured homes shall be limited to two semi-tractor trailer rigs per mobile home/manufactured home sales lot;
 - e. Internal and external repair of mobile home/manufactured home units on site shall be limited to minor repair, and no major structural repairs or scrapping shall be allowed;
 - f. A mobile home/manufactured home may be used as an office, provided that it meets the requirements as set forth in SECTION 5-E.
 - g. The property shall be paved or surfaced with base course or gravel.

6. Vehicle sales/leasing, including, but not limited to, the sale or leasing of new, used or consignment vehicles, recreational vehicles, trailers and agricultural equipment as defined in Section 4, provided:
 - a. There shall be adequate off-street parking as specified in SECTION 14.
 - b. Each vehicle sales space shall require, at a minimum, the length and width of the vehicle plus a two-foot access aisle around the perimeter of the vehicle;
 - c. Minimum setbacks from all rights-of-way and property lines for all parked, displayed or stored vehicles shall be four feet;
 - d. A solid fence, to provide a visual barrier at least six feet high, as defined in Section 4 shall be maintained between the activity and contiguous residential zone districts;
 - e. Service of vehicles on site shall be limited to light repair. (See the definition of "vehicle repair, light" in Section 4. Any other repairs shall be subject to the provisions of Subsection C and E(8) of this § SECTION 13;
 - f. The property shall be paved or surfaced with base course or gravel; and
 - g. All vehicles must be operable within 30 days of arrival.

7. Vehicle service and/or commercial garages, to include collision, paint and bod shops (excluding tire shops and salvage or scrap facilities), provided that:
 - a. Any major repair work shall be conducted entirely within an enclosed building;
 - b. Any minor repair work conducted outside of an enclosed building shall be on a concrete pad and shielded by a visual barrier from street view;
 - c. A solid fence to provide a visual barrier at least six feet high, as defined in Section 4, shall be erected and maintained between the activity and any contiguous residential zone districts;
 - d. Outdoor storage of not more than three vehicles per enclosed service bay awaiting repair and/or delivery;
 - e. Provisions are made to adequately handle, contain and control all hazardous waste and shall meet all EPA requirements;
 - f. All parking areas for customers and vehicles awaiting service shall be paved or surfaced with base course or gravel;
 - g. Inoperable motor vehicles as defined under Section 4 shall not remain on the premises for longer than 90 days unless proof of activity, including, but not limited to, invoices dated within the preceding 10 days after the vehicle has been deemed inoperable or vehicle parts have been ordered and have not been received, will be grounds to grant an extension by the Planning and Zoning Administrator/Officer for an additional 30 days. No more than two such extensions shall be granted on any motor vehicle; and
 - h. All miscellaneous materials and parts must be stored within an enclosed building.

8. Processing and manufacturing activities, fabrication and assembly activities, provided that:
 - a. Bulk storage of toxic substances or hazardous materials shall be above ground and contained in a manner approved by the Fire Department and current FEMA;

- b. All processing activities shall be carried out within a building and shall not produce off-site impacts which would be disruptive to contiguous properties;
 - c. No activity is conducted outside;
 - d. Other conditions as may be required by the Commission are met; and
 - e. No equipment or process shall be used which creates a nuisance such as noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses, off the premises. 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 the line voltage off the premises;
9. Tire shops, provided that:
- a. All work conducted outside of an enclosed building shall be on a concrete pad and only visible during daylight hours.
 - b. A solid fence to provide a visual barrier at least six feet high, as defined in Section 4, shall be erected and maintained between the activity and any contiguous residential zone districts;
 - c. All tires, including new, used and scrap tires, must be stored entirely behind a solid barrier or an enclosed building or accessory structure;
 - d. Display of tires shall be limited to not more than four sets of tires (four tires per set) to be displayed outside of the building during hours of operation and must be brought back inside at the close of business;
 - e. The owner/operator must provide the Town with a copy of a contact for licensed tire disposal with an approved tire disposal service through the New Mexico Environment Department or show registration as a scrap tire hauler if the generator will self-haul in accordance with Section 50 of the New Mexico Recycling, Illegal Dumping and Scrap Tire Management Rule (RIDSTMR) and be able to provide manifests as requested by the Planning and Zoning Administrator/Officer; and
 - f. The property shall be paved or surfaced with base course or gravel;
10. Warehousing operations, provided the business is conducted entirely inside a building or within an area enclosed on all sides by a solid fence to provide a visual barrier at least six feet high, as defined in Section 4, provided:
- a. Bulk storage of toxic substances or hazardous materials shall be above ground and contained in a manner approved by the Fire Department and FEMA; and
 - b. There shall be no off-site impacts that are disruptive to contiguous properties.
11. Self-storage mini-warehouses, provided that:
- a. All storage is within a completely enclosed single-story structure not to exceed 12 feet in height;
 - b. All stored items shall be enclosed within the structure;
 - c. A solid fence to provide a visual barrier at least six feet high, as defined in Section 4, shall be erected and maintained between the activity and any contiguous residential zone districts; and
 - d. The site shall not exceed two acres (87,120 square feet) in size

- F. Special use permits. A special use permit shall be authorized and established as per SECTION 11-D Comprehensive Zoning only for the following uses as designated by the Governing Body:
1. Wireless cell phone tower;
 2. Mobile home/manufactured home park;
 3. Planned residential development;
 4. Animal sanctuary/shelter;
 5. Residential care/assisted-living facility;
 6. Fairgrounds, baseball park complex, stadium and recreation complex.
 7. Food processing, except a slaughterhouse, which requires an area of more than 3,600 square feet.
 8. Fuel wholesalers and storage (gasoline, liquefied petroleum), provided that no facilities shall be within 400 feet of any lot in residential use unless sufficient blast, explosion, or fire confinement structures are installed according to the appropriate state regulatory agencies.
 9. Hospital, sanitarium, and residential treatment centers.
 10. Manufacturing, warehousing, compounding, processing activities that require any work conducted outside, assembling or treatment of products made from raw or processed materials, provided:
 - a. They comply with current environmental pollution standards;
 - b. Bulk storage of toxic substances or hazardous materials shall be above ground and contained in a manner approved by the Fire Department and FEMA;
 - c. There shall be no off-site impacts that are disruptive to contiguous properties;
 - d. Other conditions as may be required by the Commission and/or governing body are met; and
 - e. No equipment or process shall be used which creates a nuisance such as noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses, off the premises. 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 the line voltage off the premises.
- G. Regulated business.
1. Application. Regulated businesses shall apply on prescribed forms to the Planning and Zoning Administrator/Officer for pre-application review. Town Staff shall review application at least 20 days prior to the Planning and Zoning Commission

meeting date in order for the application to be considered. Each application for a regulated business shall be accompanied by an engineering site development plan (ESDP) as described in Subsection C of this § 10-1-11. (See also Subsection H.) Submission of inaccurate information with an application is grounds for denial.

2. Preliminary public meeting. The Commission shall hold a public meeting at which there will be a hearing to evaluate the regulated business application and shall submit its recommendation in writing to the governing body. Notice of the public meeting shall be given in accordance with the Open Meetings Act (NMSA 1978, §§ 10-15-1 to 10-15-4) at least 15 days prior to said meeting.
3. Public notification. The applicant shall post and maintain one or more signs on the premises, as provided and where instructed by the Planning and Zoning Administrator/Officer, at least 15 days prior to the date of the Commission and governing body meetings at which the application will be heard.
4. Commission recommendation. All applications for a regulated business shall first be reviewed by the Commission, which shall submit a written recommendation concerning the application to the governing body. If the Commission fails to make such a written recommendation to the governing body within 45 days after receipt thereof, then the governing body shall act upon said application without a recommendation by the Commission.
5. Final public hearing. The governing body shall conduct a public hearing at which all parties in interest and citizens shall have an opportunity to be heard. Notification of the time and place of the public hearing shall be given in accordance with the Open Meetings Act (NMSA 1978, §§ 10-15-1 to 10-15-4) at least 15 days prior to the hearing. The notice of public meeting published 15 days before the Commission meeting shall be considered sufficient notice if it also has included the time and place of the public hearing to be held by the governing body.

H. Regulated business types. The following uses shall be considered regulated businesses. Additional reasonable requirements may be required by the Commission or governing body as the situation warrants:

1. "Adult entertainment establishment" includes but is not limited to an adult bookstore, adult sex accessories/products or services, adult cabaret, adult photo amusement establishment, adult photo studio, adult theater, adult video arcade, adult body oil or lotion demonstration parlors, strip clubs or gentlemen's clubs.
 - a. No person under 18 years of age may enter the business even if he is accompanied by an adult.
 - b. All clerks/personnel shall be 18 years of age or older.
 - c. The establishment may not display any form of advertising for adult-oriented products or services in view of the public, with the exception of any on-site sign that contains the name of a business for the purpose of identifying the business.
 - d. If the applicant is an individual, the Planning and Zoning Administrator/Officer shall obtain the current residence address of the applicant, together with the applicant's social security number. If the

applicant is a partnership, the applicant shall disclose the names of all partners. If the applicant is a corporation, the applicant shall disclose the state of incorporation, the date of incorporation, the name and address sufficient for service of process of the registered agent within New Mexico and of each officer and director of the corporation. Further, the Planning and Zoning Administrator/Officer shall obtain the social security number of each officer or director of the corporation, it being the intention of this provision that the social security number shall be utilized to assist in obtaining background information on the officers and directors of the corporation. If the applicant is other than individual, the applicant shall name a managing agent and provide that person's address and social security number. It shall be the responsibility of the applicant to pay any applicable fees on background checks.

- e. Evidence that the owner, registered agent, resident manager or any officer or director of any corporation has been convicted or pled guilty to any felony or misdemeanor involving a crime of moral turpitude, including, but not limited to, sex offenses or violation of child pornography laws or other laws restricting or regulating the dissemination of adult-oriented material within five years preceding the date of this application will result in denial of the application.

2. "Body art/modification establishment" includes but is not limited to a tattoo shop/parlor, scarification shop/parlor and body piercing shop/parlor.

- a. Prior to receiving initial and annual renewal of a business license for a body art/modification establishment, each business owner must provide evidence to the Planning and Zoning Administrator /Officer that the body art establishment successfully passed a state inspection pursuant to the Body Art Safe Practices Act (NMSA 19 78, § 61-1?B-1 et seq.) during the preceding calendar year. In the event that the body art establishment has not been inspected by the state through no fault of the business owner, the owner may apply to the Town for a thirty-day extension of time, allowing the business to operate temporarily until an inspection can be performed. If the body art establishment fails to successfully pass a state board inspection, the body art establishment shall suspend body art activities until it passes a reinspection.
- b. Administering body art on any minors need written consent and a guardian's present during a tattoo or piercing.
- c. Proof of age will be shown by a government-issued photo identification accompanied by at least one other government-issued document showing proof of age, such as a birth certificate.

3. Cannabis Retail, Cannabis Cultivation, Medical Cannabis Establishment, and or Cannabis-derived Products Manufacturing includes but is not limited to any facility, building, space, or grounds licensed for the sale, consumption, production, possession, testing, manufacturing, or distribution of cannabis, concentrates, or cannabis-derived products. Such establishments must be compliant with all current state law and local regulations, including under Section 5 of this Ordinance.

4. "Smoke shop" includes but is not limited to a head shop, hookah bar, hookah lounge, herbal/tobacco smoke shop or vapor dealer.
 - a. No person under 18 years of age may enter the business even if he is accompanied by an adult.
 - b. All clerks/personnel shall be 18 years of age or older.
 - c. No products may be sold by means of self-service or vending machine assistance.
 - d. Smoke shops may not display any form of advertising for tobacco products in visible locations, with the exception of any on-site sign that contains the name of a business that lawfully sells tobacco products that have been placed at or upon the business premises for the purpose of identifying the business.
 - e. Businesses shall not distribute free tobacco products or promotional items.
 - f. Businesses shall not sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings.
 - g. Businesses must comply with all state and federal laws and regulations
5. Check cashing/payday loan establishment" includes but is not limited to cash advances, payday advances, payday loans, title loans, and check cashing establishments.
 - a. Establishments shall comply with all federal and state regulations.
 - b. Establishments may not display any form of advertising for loan or check cashing services in visible locations, with the exception of any on-site sign that contains the name of a business that lawfully conducts loans or check cashing services that has been placed at or upon the business premises for the purpose of identifying the business.
6. Bail bonds:
 - a. Shall comply with all federal and state regulations.
 - b. May not display any form of advertising bail bond services in visible locations, with the exception of any on-site sign that contains the name of a business that lawfully conducts bail bond services that has been placed at or upon the business premises for the purpose of identifying the business.
7. Pawn brokers:
 - a. Shall comply with all federal and state regulations.
 - b. May not display any form of advertising for pawn broker services in visible locations, with the exception of any on-site sign that contains the name of a business that lawfully conducts pawn broker services that has been placed at or upon the business premises for the purpose of identifying the business.
8. Fortune tellers:
 - a. Shall comply with all federal and state regulations.
 - b. May not display any form of advertising for fortune telling services in visible locations, with the exception of any on-site sign that contains the name of a business that lawfully conducts fortune telling services that has been placed at or upon the business premises for the purpose of identifying the business.

9. "Metal intake/recycling center" includes but is not limited to recycling centers, aluminum transfers, bottle exchanges, or scrap metal dealers.
 - a. Site fencing. A solid fence at least six feet in height, as defined in Section 4, with exception to the front setback area being no taller than four feet in height, shall be erected on all perimeters.
 - b. Parking of semi-tractor trailer rigs used for moving or transporting materials shall be limited to two units and must be stored out of public view.
 - c. Storage bins will be allowed on the property and must be stored out of public view.
 - d. Any and all salvage or scrap material will be unloaded on an appropriate concrete pad or the inside of the building and stored out of public view.
 - e. Centers shall comply with all federal and state requirements and regulations

10. "Salvage or scrap facility" includes but is not limited to salvage yards, scrap yards, wrecking yards, junkyards, dismantlers, or any entity in the business of outdoor storage or deposit for storing, keeping, processing, buying or selling disused vehicles, disused machinery or other disused goods or materials for resale.
 - a. All vehicle parking areas for customers shall be paved or surfaced with base course.
 - b. All areas where salvage containing EPA-regulated fluids are stored must be paved.
 - c. Each vehicle space shall require at a minimum the length and width of the vehicle plus a two-foot access aisle around the perimeter of the vehicle.
 - d. Minimum setbacks from all rights-of-way and property lines for all parked, displayed or stored vehicles shall be four feet.
 - e. Solid fence, to provide a visual barrier at least six feet high as defined in Section 4, shall be maintained between the activity and all contiguous properties. Provisions are made to adequately handle, contain and control all hazardous waste and shall meet all EPA requirements.
 - f. All miscellaneous materials and parts must be stored within an enclosed building.
 - g. Other conditions as may be required by the Commission. All noncompliant uses, including any uses holding a certificate of noncompliance, shall cease unless brought into compliance with these regulations. A possible extension of up to six months may be granted at the Planning and Zoning Commission's discretion upon application to the Planning and Zoning Administrator/Officer.

11. Flea markets, subject to the following regulations:
 - a. There shall be adequate off-street parking as specified in Section 14
 - b. The sale of animals is prohibited;
 - c. No merchandise intended for sale shall be stored on site after closing hours;
 - d. All tarps, tents, or sunshades shall be securely attached to prevent a safety hazard and shall be removed at daily closing time;
 - e. A site plan designed in accordance with the above requirements shall be submitted as part of the approval process;

- f. A solid fence to provide a visual barrier at least six feet high, as defined in Section 4, shall be erected and maintained between the activity and any contiguous residential zone districts;
- g. All food vendors shall have a separate business license/registration with the Town of Peralta and show permit approval by the New Mexico Environment Department.

I. Regulated business requirements. Anti-skid-row regulations shall apply to all regulated businesses in an effort to disperse businesses evenly across the Town in order to avoid a high-density area, or skid row effect. All regulated businesses shall comply with the distance requirements listed below;

- 1. Shall be at a location no closer than 1,000 feet along Highway 47 to another regulated business.
- 2. Shall be at a location no closer than a one-thousand-foot radius from a school property line (universities, community colleges, high schools, junior high schools, elementary schools, nursery schools).
- 3. Shall be at a location no closer than a one-thousand-foot radius from state-licensed child-care centers and/or family day-care facilities.
- 4. Shall be at a location no closer than a one-thousand-foot radius from youth - frequented locations, including, but not limited to, religious institutions, public libraries, public parks, bowling alleys, electric-game centers, pool and billiard halls, laser-tag or paint ball facilities.
- 5. Shall have a three-hundred-fifty-foot setback between any activity conducted by the salvage or scrap facility, including any activity defined in Subsection H(10) and the lot line of any residentially zoned lot or lot in residential use regardless of zoning.
- 6. Shall pay a yearly regulated business licensing fee as per Section 5-1, Business Registration.

J. Special provisions. The following provisions shall apply to all commercially zoned properties:

- 1. Any development plans with proposed infrastructure improvements such as streets, sidewalks, and water and sewer utilities shall be subject to the requirement for subdivision approval as set forth in the Subdivision Regulations, of the Town Code. In addition, any subdivision of land shall be subject to the provisions of, Subdivision Regulations.
- 2. Landscaping shall be required on all new and existing development in this zone district. Visually attractive trees and shrubs should be placed along Highway 47 to enhance and soften the streetscape, and landscaping is encouraged to be placed as buffers along the perimeter of the C-1 Zone District and contiguous residential zones.

3. No development shall divert or channel stormwater runoff to contiguous properties. To the extent possible, direct precipitation shall be retained on site. It shall be required that all stormwater retention basins will be landscaped with appropriate plantings to withstand excess water and to aid in the filtration of polluted runoff.
4. Exterior lighting in this zone district shall be controlled to avoid spillover of light and glare on operators of motor vehicles, pedestrians, and land uses in the proximity of the light source. Furthermore, in order to preserve and enhance the community's natural resource of dark skies, all outdoor night lighting fixtures shall be effectively shielded to prevent direct or reflected light into the sky.
5. All outdoor storage shall be enclosed on all sides by a solid fence at least six feet high, as defined in § 10-1-4. No stored materials shall be stacked or arranged above the height of the screen wall or fence.
6. There shall be no storage within setback areas as defined in Section SB; or, alternatively, there shall be designated emergency access.
7. No display and storage areas shall impose an undue burden upon police, fire or other emergency response officials or otherwise provide an unsafe or hazardous environment, and display and storage areas must allow free access for equipment.
8. All display and storage areas shall be kept weed, refuse and vermin free and shall not present a hazard to customers or the health, safety and welfare of the Town.
9. All display shall be set back from the street and public right-of-way lines so as not to obstruct pedestrian or vehicle traffic, allowing adequate visibility consistent with Section 5-J.
10. Adequate refuse containers shall be provided to control litter.
11. Adequate sanitary facilities (rest rooms), either portable or permanent, shall be provided on site.
12. A list of hazardous materials or explosives that are stored in bulk on the property, with such storage areas clearly marked on the map, shall be provided to the Fire Chief and the floodplain administrator.
13. No use will be allowed which will create dangerous, injurious, noxious, or other conditions that will pose a threat to public health, safety and welfare. No adverse impact on surrounding property will be allowed.
14. All businesses shall pay a business registration fee within 10 days following issuance of such permit; and shall maintain a current state Taxation and Revenue number and state licensing and certification if applicable to the type of business conducted.

15. There shall be adequate, legal access, which may require a New Mexico Department of Transportation access permit for development on New Mexico Highway 47.
16. All parking areas for customers shall be paved or surfaced with base course.

K. Setbacks, lot size and open space.

1. Development shall be connected to the Town's wastewater systems;
2. There shall be adequate stormwater retention;
3. There shall be adequate off-street parking as specified in Section 14-A Comprehensive Zoning Ordinance;
4. There shall be setbacks as required in 10-D-3 Comprehensive Zoning Ordinance;
5. There shall be no adverse impact created upon contiguous properties;
6. Engineered Site development plans are required for all new development in this zone district.

L. Exceptions. Any and all other business activities and /or the like of which are not covered in this Section 10 shall be disallowed except by completing and filing a business exception permit which will be presented to the Planning and Zoning Commission for determination. Permits may or may not be allowed after consideration of this Section 10-A and the Comprehensive Land Use Plan.

SECTION 14. STREET PARKING.

A. Off-Street Parking Requirements. Whenever any new building or structure is erected, off-street parking spaces shall be provided on the premises in accordance with this Ordinance. Existing buildings or structures need to supply the required off-street parking spaces only to the extent that open space is available on the premises. Parking spaces may be located on any portion of the lot but shall not obstruct on-site circulation or access to the premises. Unless authorized by the Town of Peralta, parking is not allowed within the public right-of-way.

B. Required Parking Spaces. The minimum number of off-street parking spaces to be provided on premises shall be as follows:

1. Banks, offices, service establishments, and retail businesses require one (1) space per three-hundred (300) square feet of floor area;
2. Bowling alleys require four (4) spaces per alley;
3. Clubs, lodges, and fraternal organizations required one (1) space per two- hundred (200) square feet of floor area;

4. Eating and drinking establishments require one (1) space per one-hundred (100) square feet of floor area; Industrial, manufacturing, and wholesaling establishments require one (1) space per two (2) employees on the largest shift;
 5. Laundromats require one (1) space per three (3) washing machines;
 6. Medical clinics and dental offices require five (5) spaces per doctor;
 7. Hotels, motels and other lodging facilities require one (1) space per unit and one (1) space per two (2) employees on the largest shift;
 8. Places of public assembly, including churches, community centers. Theaters, and gymnasiums require one (1) space per four (4) seats when sully occupies;
 9. Residential buildings and manufactured housings required two (2) spaces per dwelling unit.
- C. Mixed Uses. For mixed uses on the premises, the total requirements for off- street spaces shall be the sum of the fractional requirements of the various uses computed separately.
- D. Parking Design Standards. The following standards shall be applied to the required off-street parking areas:
1. All parking areas must have access to a public right-of-way;
 2. All driveway entrances shall be at least thirty (30) feet wide to facilitate vehicular turning into the parking area;
 3. Each parking space shall consist of an area not less than nine (9) feet by twenty (20) feet.
 4. On non-residential premises, two percent (2%) of the spaces, but not less than one (1) space, shall be set aside for the handicapped or mobility impaired. Handicapped parking spaces shall consist of an area of not less than twelve (12) feet by twenty (20) feet. All parking spaces for the handicapped shall be prominently marked for use by the international symbol of accessibility. Walkways from handicapped parking spaces to destination buildings shall be constructed to meet the standards of the Americans with Disabilities Act (ADA).

SECTION 15. ADMINISTRATION.

- A. Administrative Official. The Council shall appoint a Code Enforcement Officer to administer the provisions of this Ordinance. The Code Enforcement Officer may also serve in some other capacity as an employee or appointed official of the Town of Peralta.
- B. Inspection. The Code Enforcement Officer has the authority to conduct an inspection of buildings, structures, and the use of land to determine compliance with this Ordinance. This provision does not grant right to entry without due process, if necessary. The Code Enforcement Officer shall provide for on-site inspections and other relevant information

which may be requested by the Town Council or the P & Z Commission as necessary to carry out the purpose of this Ordinance.

- C. **Violations: Complaints and Notifications.** The Code Enforcement Officer may institute any appropriate actions of proceedings whenever there is probable cause to believe there is a violation of this Ordinance. Any person aggrieved by an apparent violation of this Ordinance shall file a written complaint with the Code Enforcement Officer who shall immediately investigate the complaint to determine if a violation of this Ordinance is found to exist. Whenever the Code Enforcement Officer finds probable cause to believe that a violation of this Ordinance exists, whether acting on independent initiative or in response to a complaint, the Code Enforcement Officer shall notify the person responsible for the alleged violation in writing. The notification shall order the necessary correction to be made within sixty (60) days following the date of notification. Any person who fails to comply with the notification order shall be subject to penalties as stated in this Ordinance.
- D. **Information and Records.** The Town shall maintain an office to supply the public with information concerning this Ordinance and shall maintain the official PERALTA ZONING MAP in an update form. A "Zoning Action File" shall be maintained and shall contain records which include the following categories:
1. Amendments to the Zoning Ordinance and Maps;
 2. Building Permit Applications (Copies endorsed by Town);
 3. Conditional Use Permits;
 4. Manufactured Housing Installations;
 5. Nonconformance Certificates;
 6. Site Development Plans;
 7. Variances allowed under this Ordinance;
 8. Zoning Appeals;
 9. Zoning Violations

SECTION 16. DEVELOPMENT REVIEW.

- A. Requirements for Local Review. For the purpose of this Ordinance, no building or structure shall be erected, nor manufactured housing installed upon any premises within the Town of Peralta without being reviewed by the Code Enforcement Officer. Building permit applications shall be submitted to the Code Enforcement Officer for review and signature before applying to New Mexico Construction Industries Division (CID) for a Building Permit. Manufactured housing installation permits shall be reported to the Code Enforcement Officer upon issuance to the manufactured housing owner. If supplemental

information is necessary to adequately review a building permit, the Code Enforcement Officer may request a site development plan as required by this Ordinance.

- B. Review Process and Fee. An administrative fee must be paid to Town of Peralta prior to any consideration in the development review. The Code Enforcement Officer shall determine if a variance, zone change, or conditional use permit is required and if so, will notify and advise the appropriate person of subsequent procedures required by this Ordinance as well as possible violation of this Ordinance. If a site development plan is required by this Ordinance, an additional fee may be imposed to cover the cost of the technical review. All Building Permit applications shall be returned to the applicant within three (3) working days following receipt by the Code Enforcement Officer.

SECTION 17. SITE DEVELOPMENT PLANS.

- A. Purpose. The site development plan is intended to provide for an effective process and framework to review commercial, industrial, and other development proposals as may be required by this Ordinance. It is further intended to ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment, and to resolve potential conflicts that may arise between proposed developments and adjacent land uses.
- B. Evaluation of Site Development Plans. All site development plans are subject to the regulations and standards of the zone district in which the proposed development occurs, unless modified by the Town Council upon request by the developer in consideration of the overall site design. The review of a site development plan shall be based upon consideration of the following:
1. Characteristics of the proposed development site and the surrounding land uses;
 2. Traffic safety, internal circulation, and parking and loading;
 3. Provisions for adequate noise and/or visual buffering from non-compatible uses;
 4. Preservation of on-site existing natural features to the extent possible; and
 5. Problems that may arise due to development within potential hazard areas such as designated floodplains.
- C. Site Development Plan Review Procedures. All site development plans shall be subject to the following procedures:
1. A site development plan review must be initiated by a written request from the Code Enforcement Officer upon determination that a site development plan is required under this Ordinance.
 2. A pre-submittal conference with the landowner or developer shall be conducted by the Code Enforcement Officer within fifteen (15) days following the date of the written request for a site development plan. The purpose of the pre-submittal conference is to provide advice and assistance in the preparation of a site

development plan. Specific requirements of components of a site development plan that are deemed unnecessary may be waived at this pre-submittal conference.

3. A site development plan shall be submitted to the Code Enforcement Officer no later than ninety (90) days following the date of the pre-submittal conference.
4. Upon receipt of the site development plan, the Code Enforcement Officer shall review the plan for compliance with this Ordinance, and when deemed complete, the site development plan shall be placed on the agenda of the next regularly scheduled meeting of the Town Council.
5. Following the presentation of the site development plan to the Town Council, a decision to approve, approve with conditions, or disapprove the site development plan must be rendered within sixty (60) days after the date of the Town Council meeting in which the site development plan was presented.
6. Reasons for any disapproval of a site development plan shall be provided in writing to the landowner or developer submitting the site development plan. A revised development plan may be resubmitted to the Town Council within sixty (60) days following the date of the decision of disapproval.

D. Site Development Plan Requirements. All site development plans shall include the following components:

1. Name and address of person or agent proposing the development;
2. Legal description of the site, current ownership of all lands included in the proposed development, and current zoning of the proposed development site and contiguous properties;
3. A site plan on a map, drawn to scale of 1-inch to 20-feet (or an appropriate scale as determined by the Town Council), showing all property lines, and the locations, dimensions, and purposes of all buildings and structures, existing and proposed, within the development plan area and contiguous properties;
4. The location and dimensions of all contiguous streets or roads, on-site utility easements indicating their purpose, pedestrian circulation patterns, and parking and loading areas, both existing and proposed;
5. Existing and proposed site topography at 2-foot contour intervals (or other contour intervals as determined by the Town Council);
6. A description preexisting drainage problems of flooding history on the site, currently designated floodplains such as vegetation and landscaping, storm water runoff and catchment areas, and soils alteration;
7. Existing and proposed location and dimensions of on-premise signs, visual screening or noise buffering devices, and other structures such as telecommunications antennas or dishes; and
8. A schedule of expected development.

SECTION 18. NONCONFORMANCE CERTIFICATE.

- A. Definition. Within the zone districts established by this Ordinance, or subsequent amendments hereto, there exists lots, structures, and uses of land and structures, which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or subsequent amendment. Such lots, structures or uses are nonconformities. It is the intent of the Ordinance to allow nonconformities to continue. However, as nonconformities are discontinued or removed, structures and future uses where these nonconformities previously existed will be required to be in Compliance with this Ordinance.
- B. Nonconformance Certificate. Nonconformities, upon discovery, shall be issued a Nonconformance Certificate by the Code Enforcement Officer in accordance with the procedures established by this Ordinance. Upon receipt of a written notification from the Code Enforcement Officer, it shall be the responsibility of the owners of nonconforming property to apply to the Code Enforcement Officer for a Nonconformance Certificate within sixty (60) days after the date of notification. Failure to accept the Nonconformance Certificate within sixty (60) days after the date of notification. Failure to accept the Nonconformance Certificate under the provisions of this Ordinance shall be considered a violation of this Ordinance.
- C. Expansion. A nonconformity shall not be enlarged, expanded, or extended. However, the addition of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this Ordinance shall not be deemed an extension of the nonconformity.
- D. Abandonment. Whenever a nonconformity has been discontinued or abandoned for a period of one (1) year or more, that conformity shall not be reestablished, and any future use shall be in conformance with the provisions of this Ordinance.
- E. Restoration. If a nonconformity is damaged or destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, then restoration must be for a permitted use.
- F. Nonconforming Lot Size. Any lot of record existing prior to the effective date of this Ordinance, which fails to meet the minimum area requirements, may be developed of improved provided that setback and other requirements of the lot are in conformance with the provisions of this Ordinance. A Nonconformance Certificate will not be required for nonconforming lots.
- G. Nonconforming Structure. Any structure built prior to the effective date of this Ordinance when it was originally written (12/12/07), or subsequent amendment which fails to meet the requirements for setback and parking will not require a Nonconformance Certificate; but is still considered a nonconformity subject to any other regulations in this Ordinance.
- H. Vested Rights. Nothing in this Ordinance shall require any change in plans, construction, or designated use of a building for which a building permit has been issued prior to enactment of this Ordinance, or amendments hereto.

- I. Multigenerational Housing. Where an existing manufactured housing unit and/or mobile home is pursuant to NM State Multigenerational Statute 3-21-1(F) and is currently a non-conformity, it shall be allowed to be replaced in the same location and connected to existing utilities. The installation must comply with all manufacture housing and/or mobile home and Local and State Codes and Ordinances.

SECTION 19. CONDITIONAL USE PERMIT.

- A. Permit Required. Conditional uses that are established by this Ordinance shall not be allowed except upon the review and approval for a permit issued by the P & Z Commission, which shall be guided in making a decision by the criteria set forth in this section.
- B. Application. Any request for a Conditional Use Permit shall be submitted with an administrative fee to Town of Peralta staff on a prescribed application form obtainable at the Town offices. The Code Enforcement Officer or Town of Peralta Staff shall transmit the completed application and any supplementary information to the P & Z Commission for review and consideration at their next scheduled meeting. To the extent possible, all contiguous property owners shall be notified of the P & Z Commission meeting at which the Conditional Use Permit application will be considered for approval.
- C. Guidelines. A Conditional Use Permit shall not be approved unless satisfactory provisions have been made concerning the following issues, where applicable:
1. Accessibility to the property and proposed structures on the premises, with particular reference to vehicular and pedestrian safety, traffic control, off street parking, and emergency access in case of fire, flood, or catastrophe;
 2. If applicable, connections to water and sewer services and other public utilities, with reference to necessary easements or dedications;
 3. Storm water drainage control and flood protection with reference to the National Flood Insurance Program;
 4. Solid water management systems and the potential for hazardous waste;
 5. The economic, noise, glare, odor effects of the Conditional Use on contiguous properties; and
 6. General compatibility with contiguous properties and other properties in the area.
- D. Limitations. Conditional Use Permits issued in accordance with the requirements of this Ordinance shall be considered permanent, with the following exceptions:
1. For any conditional uses that have an exceptional tendency, because of their nature or character, to create an adverse impact on neighboring properties, the P & Z Commission may limit the term of the permit to a specified length of time after which the permit shall expire and may be renewed. An application for

renewal of the Conditional Use Permit may be submitted and processed in the same manner as the original application, with a reduced administrative filing fee.

2. Where there has been a significant change in the physical extent, operations, or character of a permitted conditional use, the P & Z Commission may require a renewal of the original Conditional Use Permit. Significant change shall be determined by the P & Z Commission based on the scheduled review of the Conditional Use Permit.
3. An approved Conditional Use Permit shall become void one year after the date of approval is the rights and privileges granted thereby have not been utilized.
4. An approved Conditional Use Permit shall become void if, after the use has begun, it ceases on the approved site for a contiguous period of one (1) year or more.

SECTION 20. VARIANCES.

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

SECTION 21. AMENDMENTS.

- A. Authority. The Town Council may amend or change any of the regulations, procedures, or zone district boundaries established by this Ordinance.

- B. Application. Any request for an amendment to this Ordinance shall be submitted with an administrative fee to the Code Enforcement Office on a prescribed application to be obtained at the Town office. An application may be initiated by the Town acting on behalf of the community at large. The Code Enforcement Officer shall transmit the completed application and any supplementary information to the P & Z Commission for review at their next scheduled meeting. The P & Z Commission shall prepare and transmit a recommendation in writing to the Town Council within seven (7) days after their review of the proposed amendment is completed. To the extent possible, all contiguous property owners of any land proposed for a zone change shall be notified of the P & Z Commission meeting at which the zone change will be reviewed for recommendation to the Town Council.
- C. Public Hearing. Upon receipt of the written recommendations of the P & Z Commission, the Town Council shall call for a public hearing in which to make its decisions on an application for amendment to this Ordinance. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the Town at least fifteen (15) days prior to the hearing. The Town Council shall conduct the public hearing, at which all parties shall have an opportunity to submit data, views, or arguments, orally and in writing, and to examine witnesses testifying at the hearing. A record of the public hearing shall be kept.
- D. Notification by Mail. Whenever a zone change is proposed for an area of one (1) block or less, notice of public hearing shall be mailed by certified mail, return receipt requested, to the owners of land within the area proposed to be changed by a zoning regulation and within one-hundred (100) feet, excluding public right-of-way, of the area proposed to be by a zoning regulation. Whenever a zone change is proposed for an area of more than one block, notice of the public hearing shall be mailed by first class mail to the owners of land located within the are proposed to be changed by a zoning regulation and within one-hundred (100) feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation. If any notice by first class mail is returned undeliverable, the Town shall attempt to discover the owner's most resent address and shall remit the notice by certified mail, return receipt requested.

SECTION 22. APPEALS.

- A. Right of Appeals. Any person aggrieved by a decision of the Code Enforcement Officer or the P & Z Commission in carrying out the provisions of this Ordinance may appeal the decision to the Town Council. An appeal must set forth specifically a claim that there was an error or an abuse of discretion, or that a decision was not supported by evidence in the matter.
- B. Application. Any appeal following a decision of the Code Enforcement Officer, or the P & Z Commission shall be made in writing on prescribed forms obtainable at the Town office, upon payment of an administrative fee, and submitted to the Code Enforcement Officer. Any appeal not submitted within thirty (30) days after the decision which is the subject of the appeal shall not be considered by the Town Council. The Code Enforcement Officer shall transmit all papers involved in the proceedings to the Town Council within seven (7) days after receipt of the appeal application.

- C. Public Hearing. The decision on an appeal shall be made by the Town Council following a public hearing. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the Town at least fifteen (15) days prior to the hearing. The Code Enforcement Officer shall notify the applicant, members of the P & Z Commission, and a representative of the opponents, if any, of the hearing date.
- D. Stay of Proceedings. An appeal shall stay all proceedings in the action unless the Code Enforcement Officer certifies that a stay will cause imminent peril to life or property. Upon certification, the proceedings shall not be stayed except by order of District Court.
- E. Decision. An appeal shall be decided within sixty (60) days of the date of application of the appeal. A majority vote of the members of the Town Council is required to reverse, change, or affirm a decision made by the Code Enforcement Officer or the P & Z Commission.

SECTION 23. ADMINISTRATIVE FEES.

A. Applications. Any application required by this Ordinance shall be filed on prescribed forms obtainable at the Town office and shall be accompanied by an administrative fee. Administrative fees shall not be required where any official of the Town of Peralta is the moving party. The purpose of an administrative fee is to cover the processing costs and shall not be refundable. All fees shall be paid to the Town at the time of application and shall be made payable to the Town of Peralta.

B. Administrative Fees. Administrative fees will be charged as follows:

1. Amendment to this Ordinance:	\$1,000.00
2. Appeal:	\$500.00
3. Conditional Use Permit:	\$250.00
4. Conditional Use Permit Renewal:	\$125.00
5. Development Review/ Site Plan Review (Commercial):	\$500.00
6. Odor Control Plan Review	\$1,000.00
7. Development Review/ Site Plan Review (Residential):	\$300.00
8. Variances:	\$250.00
9. Re-Plat (reconfiguration-non division):	\$100.00
11. Lot Split (division):	\$100.00 Per Lot
12. Mobile Home Review/Permit:	\$75.00

13.	Building Permit:	\$35.00
14.	New Address or Re-Address Letters:	\$35.00
15.	Business Signs:	\$35.00 Per Sign
16.	Political Signs:	\$100.00 one-time fee
17.	Real Estate Signs:	\$35.00 per sign
18.	Regulated Business License	\$1000.00 yearly fee

SECTION 24. PENALTIES.

Any person violating any of the provisions of this Ordinance shall upon conviction be subject to a fine not exceeding five-hundred dollars (\$500.00) or imprisonment for a period not exceeding ninety (90) days, or both such fines and imprisonment, as authorized by State Law [3-17-1C, NMSA 1978]. Any violation continued for a period of fifteen (15) days after conviction shall be prosecuted and treated as a separate offense.

SECTION 25. SEVERABILITY.

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