

AGENDA
City of Hobbs Planning Board – Regular Meeting
April 17, 2018 at 10:00 AM

W. M. “Tres” Hicks, Chairman
Bill Ramirez
Brett Drennan
Larry Sanderson

Guy Kesner, Vice Chairman
Philip Ingram

Tentative Agenda for the Planning Board Regular Session Meeting to be held on Tuesday, April 17, 2018 at 10:00 AM at the City of Hobbs Annex Building, First Floor Commission Chambers located at 200 E. Broadway, Hobbs, NM 88240.

AGENDA

- 1) Call To Order.**
- 2) Review and Consider Approval of Agenda.**
- 3) Review and Consider Approval of Minutes.**

March 20, 2018 – Regular Meeting

- 4) Communications from Citizens.**
- 5) Review and Consider proposed subdivision located northeast of the intersection of Kansas and Rolling Meadows within the Municipality’s Extra Territorial Jurisdiction, as submitted by Juana Menchaca, property owner. The subdivision of the +/- 3.64 parent parcel as proposed would create 4 parcels each being +/- .911 acres.**
- 6) Review and Consider variance from MC 15.32.030 & 15.32.140 as issued by this body on February 20, 2018, concerning a non-compliant Billboard located northeast of the intersection of Carlsbad Highway and Goings Lane.**
- 7) Review and Consider a proposed Right – of – way management Ordinance.**
- 8) DISCUSSION ITEM**
 - A) Review & discuss Planning District Map for Mobile Home Parks (MHP), Recreational Vehicle Parks (RVP) and Mobile Home Subdivision Planning District (MHS), as per MC 18.04.040-A.**
 - B) Review & discuss Lot of Record requirements within MC 18.04.060-H.**
- 9) Adjournment.**

The City will make every effort to provide reasonable accommodations for people with disabilities who wish to attend a public meeting. Please notify the City at least 24 hours before the meeting. Telephone 397-9351.

“Notice is hereby given that a quorum of the Hobbs City Commission may be in attendance at this meeting.”

**PLANNING BOARD MEETING
MINUTES
March 20, 2018**

The Hobbs Planning Board met on March 20, 2018 at 10:00 a.m. at City of Hobbs Annex Building, First Floor Commission Chambers, located at 200 E. Broadway, Hobbs, NM 88240 with Mr. W.M. “Tres” Hicks Chairman presiding.

Members Present:

Tres Hicks, Chairman
Guy Kesner, Vice Chairman
Bill Ramirez
Dwayne Penick
Brett Drennan
Larry Sanderson

Members Absent:

Bobby Shaw

Also present were members of the public and City staff as follows:

Kevin Robinson, Development Director
Todd Randall, City Engineer
Julie Nymeyer, Staff Secretary
Jimmy Littleton
Raymond Bonilla
Shawn Williams
Heather Baraeraz
Members of the public

Shelia Baker
Commissioner Newman
Mike Stone, City Attorney
Eddie Chavarria
Arthur Delacruz
Dennis Holmberg
Nick Maxwell

1) Call To Order.

Chairman Hicks called the meeting to order at 10:03 am.

2) Review and Consider Approval of Agenda.

The first item of business was to review and approve the Agenda for the March 20, 2018 meeting. Mr. Hicks asked if there were any changes or additions to the Agenda? Mr. Robinson said there were none. Mr. Ramirez made a motion, seconded by Mr. Kesner to approve the agenda as presented. The vote on the motion was 5-0 and the motion carried.

3) Review and Consider Approval of Minutes.

**February 20, 2018 – Regular Meeting
March 2, 2018 – Special Meeting**

Mr. Hicks asked if everyone has had a chance to read the Regular Meeting Minutes from February 20, 2018? Mr. Kesner made a motion, seconded by Mr. Penick to approve the minutes as presented. The vote on the motion was 5-0 and the motion carried.

Mr. Hicks asked if everyone has had a chance to read the Special Meeting Minutes from March 2, 2018? Mr. Penick made a motion, seconded by Mr. Ramirez to approve the minutes as presented. The vote on the motion was 5-0 and the motion carried.

Mr. Sanderson arrived at the meeting.

4) Communications from Citizens.

Mr. Nicholas Maxwell introduced himself and said his issue is that back on May 17th, 2016 he had come before the Board and had asked the Board if it was possible to make a request by way of a recommendation to the City Commission to make this Boards minutes available on the website. He said at the time on March 18th, 2016 the tax payers of the City of Hobbs lost their taxpayers record data base. He said he advocates the data base is fixed and put back the way it was.

Mr. Maxwell said there are some folks here that their livelihoods depend on the last agenda item today and he asked if the item 8B could be moved ahead.

Mr. Hicks asked how many people were here for item 8B? He then said he would entertain a motion to move item 8B to the front of the agenda. Mr. Penick made a motion, seconded by Mr. Ramirez to move item 8B to the front of the agenda.

8) DISCUSSION ITEM

B) Review & discuss the proposed amendment to MC 5.04 & 5.20 as recommended for approval of the City Commission by the City of Hobbs Planning Board at the December 15, 2015 regular meeting.

Mr. Robinson said this is a discussion item only. He said there is no action that can be taken by the Board. He said he is proud of the city's Code Enforcement Division. He said it is their job to make sure every property is compliant with the developmental rules and regulations as well as life, health and safety regulations. He said on occasions they do get complaints and investigate.

Mr. Robinson said the mobile vending units are not code complaint as a permanent structure. He said it is regulated under the MVD as a mobile unit. He said the municipality issues a mobile vending license. He said it is not complaint for those structures to be hooked onto municipal or franchisee services. He said upon review of the last proposed amendment he said the will of the Planning Board was to restrict the location to primarily nonresidential areas and not hooked on to utilities. Mr. Penick asked if their goal was to let mobile vendors hook onto electricity? Mr. Robinson said the Board wanted to have a pathway for a temporary connection that was code compliant. He said they still do not want any connections to utilities that are not code compliant. Mr. Hicks said the Board did pass a limited ordinance with a recommendation to the City Commission. Mr. Kesner asked if it has been presented to the City Commission? Mr. Robinson said no. Mr. Penick asked why it had not been passed to them? Mr. Robinson said this Board does not control the City Commission Agenda. He said the Commission agenda is the City Managers, Mayors and

any three City Commissioners. He said there are multiple items that go to the Commission for the agenda. Mr. Penick said this affects people's livelihood.

Mr. Robinson said part of the second highlighted area of the ordinance may need to be rewritten. He said they want to definitely convey that mobile vending units will never be a permanent addressable structure. Mr. Hicks said if we want to send it to the Commission should we consider changing a portion of the ordinance? Mr. Kesner said he is not happy this was not presented to the Commission. He said hours of time by the public and the Board was spent on this and it is discerning this was not sent to Commission. He said he does not want to review it again because they have spent a lot of time on this and if the Commission would like this to be revised or changed they can send it back to the Planning Board. Mr. Penick said he agreed and the Board went over the ordinance for numerous hours.

Mr. Sanderson asked how many problems there been in the time this didn't go to Commission. Mr. Raymond Bonilla said at this point it is not their intent to shut anyone down but they have asked for code compliance. He said some mobile vendors have given warnings as far as electrical connections. He said there has also been plumbing hooked up to a clean out which is not a method of drainage. He said their primary job is protection of property and life. He said there was one mobile vendor that hooked up to natural gas without permits which is very dangerous. Mr. Stone said this is an issue that needs to be addressed.

Mr. Stone said from staff's perspective that is why the Board is seeing this again so that it can be sent back to Commission. He said there are some very real issues out there that are life, health and safety issues. He said on this discussion item there should be a recommendation to staff to send it back to Commission. Mr. Sanderson said we owe the mobile vendors a resolution.

Mr. Hicks asked if there were any members of the public that would like to speak. Mr. Maxwell said he would like to point out the life, health and safety issues will be done specifically through the locations of these units. He said the location of the mobile vendors is extremely constrictive on this ordinance. Mr. Hicks said the Board met on this item for months and that definition was the result of all those public meetings. He said he does not see any reason to change it but the City Commission can change it if they like.

Ms. Heather Barreraz and she said she owns Heather's Kettle Corn and is on Fowler Street. She said there is currently an ordinance where you cannot plug into your home and she has been doing that for almost 4 years. Mr. Hicks said the current ordinance states you cannot plug into your home. Mr. Penick said when you do put in a permanent structure you will have to comply with all the IBC regulations. She said she spoke to Mr. Bonilla and was aware. She asked if she hooks onto her generator she will be ok? Mr. Hicks said yes.

Mr. Emilio Marin asked about the electrical hookups and said they were told to unplug their units. He asked if they complied could they hook up too electricity? Mr. Penick said not on the existing ordinance but if the new ordinance passes they would be able too. Mr. Kesner said he thinks this ordinance should be sent to the City Commission preferably on the next agenda.

- 5) **Review and Consider front yard setback variance request for a structure to be located at 107 E. Taos, as submitted by Christina Astorga, property owner. At this location Taos Street is classified as a Minor Residential requiring a front yard setback of 21' from the property line; the proposed structure is requested to be located 0' from the property line requiring a 21' variance.**

Mr. Robinson said this variance is over what staff can do administratively. He said this structure is going to be located about 8 feet from the back of the sidewalk. He said this area is a 50 foot dedicated right-of-way. Mr. Hicks said the property line is only ½ a foot behind the property line. Mr. Robinson said correct. Mr. Hicks said it has been the Boards habit in the past to approve structures that are similar in nature on the same block. Mr. Drennan made a motion, seconded by Mr. Ramirez to approve the variance. The vote on the motion was 6-0 and the motion carried.

- 6) **Review and Consider variance from MC 15.32.030-A1, as submitted by property owner, Playa Escondida Housing, LLLP. A monument sign located at the property line is allowed a maximum height of 2' the proposed monument sign has a height of 3'.**

Mr. Robinson said these non-permitted signs were being built and Code Enforcement noticed concrete was being poured for the signs and shut them down. He said the municipal code says a monument sign on your property line must be 2 feet tall. He said the further back you go the higher the monument sign can be. He said staff has spoken with the property owner and told them their construction was not compliant with city codes. He said the Building Official is working with the developer to assure compliance. He said the owner is agreeable to take the sign down to 3 foot. He said there are two signs.

Mr. Hicks asked about the site and if the property had a curved radius? Mr. Robinson said yes and it is because this property was subdivided. He said the portion that was a public easement on Jefferson and Yeso was dedicated to the community. Mr. Hicks said the bottom line is they just need to reduce the height? Mr. Robinson said staff told the developer how important it was that the sign be corrected before coming to the Board because it is a site obstruction but it still is not compliant today. Mr. Penick asked how high the sign was today? Mr. Robinson said 6 foot. He said the owner has agreed to locate the eastern portion of the sign no closer than 10 foot to the back of curb and it is currently 7 foot. Mr. Hicks asked if the 2nd sign was in violation also? Mr. Robinson said yes the second sign is in violation because of the height. He said it is located within the private property but it should only be 2 feet tall. Mr. Sanderson asked if both locations need a variance. Mr. Robinson said yes.

Mr. Sanderson made a motion, seconded Mr. Penick to approve a conditional variance providing the structure is removed and lowered to 3 feet within two weeks and if it is not completed within two weeks the variance is void and the structure must be moved. The vote on the motion was 6-0 and the motion passed.

- 7) **Review and Consider an encroachment agreement for property located at 1021 E. Yeso, as submitted by property owner, Playa Escondida Housing, LLLP. The monument sign as proposed would encroach upon public property by 5' due to the radius located in the corner.**

Mr. Robinson said this item is only to the sign that is adjacent to Jefferson which is an encroachment to the Jefferson right-of-way. He said the reason item 6 & 7 was separated is because the owner is requesting a variance for the height restriction and approving a recommendation for the Commission to grant an encroachment easement agreement. He said the encroachment and encroachment easement are connected to the parcel and if the structure has to be removed they can put a lean on the property. Mr. Ramirez made a motion, seconded by Mr. Penick to recommend granting an encroachment agreement to the City Commission contingent upon him having the sign fixed for the previous variance. The vote on the motion was 6-0 and the motion carried.

8) **DISCUSSION ITEM**

A) Review & discuss Sub-committees work on the proposed Right – of – way management Ordinance.

Mr. Robinson said there was a subcommittee meeting on March 2, 2018 and staff was given directions on the changes which are in the notes in front of them. He said they are making progress and there will be two more meetings prior to the next Board meeting. He said hopefully by the next meeting the Board will see the subcommittee right-of-way management ordinance. He said staff is getting calls on a weekly basis for infrastructure occupancies in the city right-of-way. Mr. Hicks said three of the Board members are on the subcommittee and asked if the Board had any questions on the ordinance and he asked them to read the ordinance thoroughly before the next meeting.

9) **Adjournment.**

With nothing further to discuss Mr. Kesner made a motion, seconded by Mr. Sanderson to adjourn the meeting at 11:24 am. The vote on the motion was 6-0 and the motion carried.

Tres Hicks, Chairman

April 17, 2018
Planning Board Regular Meeting

- 5) **Review and Consider proposed subdivision located northeast of the intersection of Kansas and Rolling Meadows within the Municipality's Extra Territorial Jurisdiction, as submitted by Juana Menchaca, property owner. The subdivision of the +/- 3.64 parent parcel as proposed would create 4 parcels each being +/- .911 acres.**

Staff Notes:

The proposed subdivision is located within the ETJ adjacent to Rolling Meadows a fully developed and County maintained Roadway. As the proposed subdivision is located within the ETJ area (5 mile from the municipal boundary) the County and the Municipality shall each have jurisdiction concurrently, meaning that each governing authority would need to approve the subdivision as to their adopted rules and regulations. The proposed subdivision is a "Type Three A" for the County and therefore eligible, and subject to compliance with, the Summary Review Process under Article 6 (see excerpts below) of the County Subdivision Regulations.

Section 6.1. Summary Review Procedure

6.1.1. **Qualifications.** The following types of subdivisions shall be submitted to the County for approval under summary review procedure:

- A. All Type Three A subdivisions containing five (5) or fewer parcels of land.
- B. All Type Five subdivisions.

6.1.5. **Review and Approval.** Summary review plats submitted to the County for approval shall be approved or disapproved by the County Planning and Zoning Board at a public meeting within thirty (30) days of the date the summary review plat is deemed complete. The Board of County Commissioners has delegated to the County Planning and Zoning Board the authority to approve any subdivision under summary review.

6.1.6. **Improvement Agreement.** If, at the time of approval of the summary review plat, any public improvements have not been completed by the subdivider as required by these Regulations, the County Manager shall, as a condition preceding approval of the summary review plat require the subdivider to enter into an agreement with the County, on mutually agreeable terms, to thereafter complete the improvements at the subdivider's expense.

6.2.6. **Dedication.** The final plat shall contain a certificate stating that the Board of County Commissioners has accepted, accepted subject to improvement, or rejected, on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication.

A. Included in each dedication shall be the following:

All areas of land shown for public use, including streets and alleys, are hereby dedicated to the public use and fee vests in Lea County. As a condition of acceptance, the Subdivider agrees to construct at his own expense, all roads, streets, and alleys within, and provide access to, the subdivision in full conformance with the requirements of the Lea County Subdivision Regulations and the approved schedule of compliance and, if required, phased development plan; and to sell or lease parcels only in accordance therewith.

The question on the proposed subdivision presented to the Board has to do with "improvements" as required by the County and the Municipal subdivision process, and more specifically the installation by the subdivider of any required street.

Lea County subdivision Regulations Section 16.2.1 (A2&3) states that roads are necessary to "Protect public health and safety" and for "providing adequate access for public service vehicles". Additionally, Section 16.2.1 (C) states that "Within the extraterritorial jurisdiction area of each given town, all streets within a proposed subdivision shall be chipsealed". Also, Section 16.2.1 (E) requires "a minimum (60) foot right-of-way, dedicated to the public use with fee vesting in Lea County, for all streets", as well as imposing building setbacks on quarter-section lines of 35' from the street right-of-way line. Lastly, and most importantly, Section 16.2.1 (F) states "Block lengths shall not exceed thirteen hundred twenty (1320) feet and cross streets shall match adjoining streets wherever practicable". In the case of the proposed subdivision

the distance from the northern boundary adjacent to Rolling Meadows to the center line of Kansas is +/- 2,300' or +/- 980' greater than the required block length.

City of Hobbs MC 16.16.040-B states "Block lengths shall not exceed eight hundred eighty (880) feet, measured along the property lines", however, historically the municipality has been approving ETJ subdivisions compliant with the County's 1,320' block length requirement. This primarily is a nod to the decreased density of rural development and the larger frontages required for lots needing water wells and septic systems. However, both County and Municipal regulations are clear that the subdivider is responsible for providing any public infrastructure that is required.

Both Lea County Subdivision Regulations and City of Hobbs Subdivision Regulations have incorporated therein variance procedures whereby a subdivision that is not compliant with the adopted rules and regulations may be approved. The importance each authority places on the adopted subdivision regulation(s) is apparent based on the difficulty required to obtain a variance. The Lea County Board of Commissioners has retained the authority to grant variances from County Subdivision regulation (Section 7.4, below), however, the City of Hobbs Commission has bestowed unto the Planning Board variance authority (MC 16.04.020 below) provided that a variance "will not have the effect of nullifying the intent and purpose of such regulations."

See the following 3 pages excerpted from Lea County Regulations & City of Hobbs Regulations concerning Variance Procedures (within the red clouds).

- 7.3.3. Scheduling and Notification. Within sixty (60) days after the date of receipt of the statement of vacation and payment of appropriate review fees, the Board of County Commissioners shall approve or deny the vacation, subject to the following:
- A. Action shall be taken at a public meeting.
 - B. At least fifteen (15) days before the proposed meeting, all owners of record of property within the subdivided land to be vacated and all owners of record of property contiguous to the subdivided land to be vacated shall have been notified by mail of the proposed vacation and the date, time and place of the public meeting at which the vacation will be considered by the Board of County Commissioners.
 - C. Relevant utilities and other agencies have been notified.
- 7.3.4. Action. In approving the vacation of all or a part of a final plat, the Board of County Commissioners shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a final plat, the Board of County Commissioners may require that roads dedicated to the County in the final plat continue to be dedicated to the County.
- 7.3.5. Filing. The approved statement declaring the vacation of a portion or all of a final plat shall be filed in the office of the County Clerk. The County Clerk shall mark the final plat with the words "Vacated" or "Partially Vacated" and refer on the final plat to the volume and page on which the statement of vacation is recorded.

- 7.3.6. Utilities. The rights of any utility existing before the total or partial vacation of any final plat are not affected by the vacation of a final plat.

Section 7.4. Variances.

Where, a subdivider can demonstrate that strict compliance with the requirements of these Regulations would result in a substantial or unreasonable hardship to the subdivider because of exceptional topographic, soil or other surface or subsurface conditions, or that strict compliance with these Regulations would result in inhibiting the achievement of the objectives of these Regulations, the County may vary, modify, or waive the requirements.

- 7.4.1. Planned Development Area. The County may grant a variance from the standards and requirements of these Regulations if it is presented with a plan and program for a new town, a complete community, or a neighborhood unit, which, in the judgment of the County provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants and other legal provisions as will assure conformity to and achievement of the plan.
- 7.4.2. Conditions and limitations. A variance shall not be granted which will cause the County to absorb costs over and above those typically associated with subdivision approval. In recommending variances, the County Planning and Zoning Board may require such conditions as will:
- A. Substantially secure the objectives of the standards of these Regulations; and

- B. Not adversely affect the health, safety, and general welfare of the public, if otherwise consistent with the general purpose and intent of these Regulations and if not injurious or detrimental to the surrounding area.

7.4.3. Procedures. The following procedures and requirements shall apply to all requests for variances under these Regulations.

- A. Requests for variances shall be submitted in writing prior to or at the time of request for preliminary plat approval on a form provided by the County for that purpose.
- B. Variance requests shall be reviewed by the County Planning and Zoning Board in public hearings prior to or concurrent with public hearings that are held for recommendations for approval or denial of the preliminary plat.
- C. Notice of the request for variance shall be given in the same manner as notice is provided for any public hearing required in these Regulations and shall comply with the requirements of the Open Meetings Act of the State of New Mexico.
- D. Variance requests shall be submitted to the state or other reviewing agency having expertise with respect to the subject matter for which the variance is sought, and shall be governed by the same time limits.
- E. The County Planning and Zoning Board shall make written findings of fact regarding each of the requirements of these Regulations and shall produce those findings of fact and a recommendation on each request for variance. The record shall be submitted to the Board of County Commissioners for a final decision. The Commission may accept, reject, or modify the recommendation of the Planning and Zoning Board.
- F. Notice of the final decision and order shall be prepared, signed and filed with the County Manager's Office within five (5) working days after the final approval is obtained from Board of County Commissioners at the public hearing at which the variance is considered.

Section 7.5. Exemptions

7.5.1. Approval Required. It is unlawful for any person to divide a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease or other conveyance or for building development, whether immediate or future, unless such person either obtains approval for a subdivision as provided in these Regulations or files and obtains approval for a Claim of Exemption as provided in this Article.

7.5.2. Verification of Exemption.

- A. Any person claiming entitlement to an exemption under the provision of these Regulations shall file a written claim of exemption on the form prescribed in the Appendix of these Regulations with the County Manager before making the land division for which the claim of exemption is made.
- B. The County Manager or his designee shall review the claim of exemption and supporting documents and shall mail written notice of whether the exemption has been approved or denied to the person claiming the exemption within thirty (30) days after receipt of the completed claim of exemption; provided, however, that the thirty (30) day period shall not begin to run until the person

7. "Alleys" are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street
 8. Pavement widths shall be as prescribed within the City of Hobbs Major Thoroughfare Plan.
- B. "Subdivide" or "subdivision" for the purpose of approval by a Municipal Planning Authority means:
1. For the area of land within the corporate boundaries of the municipality, or within the extraterritorial planning and platting jurisdiction, the division of land into two (2) or more parts by platting or by metes and bounds description into tracts for the purposes set forth in subsection C of this section. Those subdivisions within the extraterritorial jurisdiction creating tracts of 5 acres or larger, regardless of the number of tracts created shall be reviewed under the Alternate Summary Procedure of this Code.
- C. The division of land pursuant to subsection (B)(1) of this section shall be for the purpose of:
1. Sale;
 2. Laying out a municipality or any part thereof;
 3. Adding to a municipality;
 4. Laying out of lots; or
 5. Resubdivision.

(Ord. 842 § 2, 1998: prior code § 25-1)

16.04.020 - Variances and modifications.

- A. Hardships. Where the Planning Board finds that extraordinary hardships may result from strict compliance with this title, it may vary the regulations contained in this title, so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of such regulations.
- B. Large Scale Developments. The standards and requirements of this title may be modified by the Planning Board in the case of a plan and program for a new town, complete community or neighborhood unit which, in the judgment of the Planning Board, provide adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provide such covenants or other legal provisions as will assure conformity to and achievement of the plan.
- C. Conditions in Granting. In granting variances and modifications, the Planning Board may require such conditions as will, in its judgment, assure substantially the objectives of the standards or requirements so varied or modified.

(Prior code § 25-2)

Chapter 16.08 - PLATS AND PLATTING PROCEDURE

16.08.010 - Application fee.

Upon submittal of any plat as set forth in this chapter for consideration, the applicant shall pay to the City a fee in the sum of fifty dollars (\$50.00), for a subdivision eligible for summary process approval, or one hundred dollars (\$100.00) for a subdivision ineligible for summary process approval. No action shall be taken on such application unless such fee is paid.

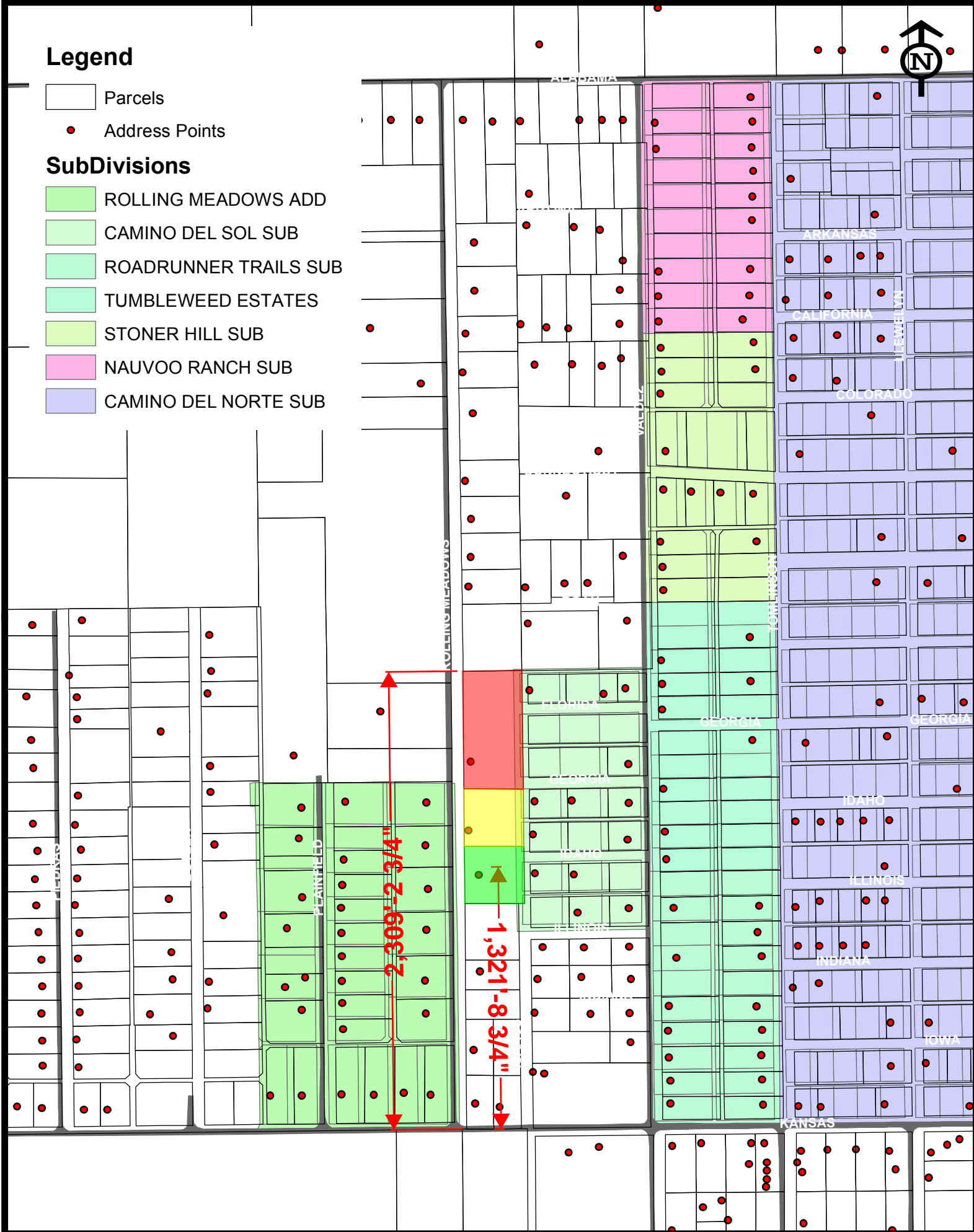
For historical context prior to 2009 the tract currently proposed to be subdivided was part of a larger tract owned by Dale & Christine Shreffler comprised of +/- 8 acres. On July 20, 2009 the Municipality approved a subdivision, exempt from the County regulations, of the parent parcel creating a 2 acre tract from the southern property boundary and a 6 acre remainder tract.

Legend

- Parcels
- Address Points

SubDivisions

- ROLLING MEADOWS ADD
- CAMINO DEL SOL SUB
- ROADRUNNER TRAILS SUB
- TUMBLEWEED ESTATES
- STONER HILL SUB
- NAUVOO RANCH SUB
- CAMINO DEL NORTE SUB



07656

WILLIAM C.
ROANS89°57'04"E
300.00'

5/8" REBAR

30' EASEMENT

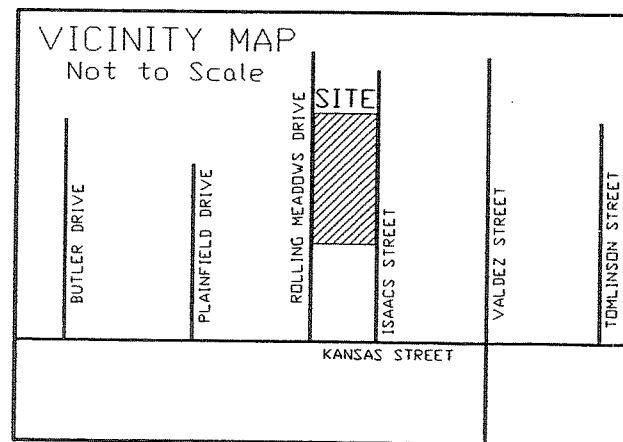
FLORIDA AVE.

TRACT B
±6.07 ACRES

882.12'

882.07'

GEORGIA AVE.

N89°57'39"W
300.00'S89°57'39"E
300.00'P.O.B.
TRACT B
IDAHO AVE.TRACT A
±2.00 ACRESN89°57'39"W
300.00'JASON EMRICK
BK. 1565 PG. 588P.O.B.
TRACT ASOUTH QUARTER CORNER
OF SECTION 33

CERTIFICATE OF MUNICIPAL APPROVAL

I, JOE DEARING, THE DULY APPOINTED CITY PLANNER FOR THE CITY OF HOBBS, LEA COUNTY, NEW MEXICO, DO HEREBY CERTIFY THAT THE FOREGOING PLAT IN THE CITY OF HOBBS, LEA COUNTY, NEW MEXICO WAS REVIEWED AND DEEMED COMPLIANT WITH THE MUNICIPAL SUMMARY PROCESS REGULATIONS ON THIS 20th DAY OF July, 2009.

JOE DEARING, CITY PLANNER

JAN FLETCHER, CITY CLERK

ACKNOWLEDGMENT

STATE OF NEW MEXICO)

COUNTY OF LEA)SS

ON THIS 20th DAY OF July, 2009, BEFORE ME PERSONALLY APPEARED JOE DEARING AND JAN FLETCHER, KNOWN TO ME TO BE THE PERSON(S) DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES: 10/31/09

NOTARY PUBLIC

NOTES:

THESE TRACTS ARE BEING DIVIDED FROM A TRACT OF LAND CONVEYED TO DALE EUGENE AND CHRISTINE SHREFFLER, HUSBAND AND WIFE AS DESCRIBED IN DEED BOOK 1634, PAGE 484 OF THE LEA COUNTY RECORDS.

THIS SURVEY IS A DIVISION OF LAND FOR SALE, LEASE OR OTHER CONVEYANCE AND IS TO BE SUBMITTED FOR CLAIM OF EXEMPTION AS REQUIRED IN LEA COUNTY SUBDIVISION REGULATIONS ORDINANCE #35 AND THE NEW MEXICO SUBDIVISION ACT.

BEARINGS SHOWN HEREON ARE FROM WARRANTY DEED FILED IN BOOK 1634, PAGE 484 OF THE LEA COUNTY RECORDS.

UTILITIES SHOWN ARE APPROXIMATE LOCATIONS.

200' 0 200' 400 FEET
SCALE: 1" = 200'

LEGEND

- ⊙ — DENOTES FOUND 1/2" REBAR UNLESS OTHERWISE NOTED
- ⊙ — DENOTES SET 1/2" REBAR W/ PVC CAP MARKED "NM 15079 TX 5204" UNLESS OTHERWISE NOTED
- ⊙ — DENOTES SET MAGNAIL W/WASHER MARKED "ASEL SURVEYING NM 15079"

PLAT TO OBTAIN LEA COUNTY EXEMPTION
AND CITY OF HOBBS SUMMARY REVIEW

ON TWO TRACTS OF LAND IN THE SOUTHWEST QUARTER (SW/4)
OF SECTION 33, TOWNSHIP 17 SOUTH, RANGE 38 EAST, N.M.P.M.,
LEA COUNTY, NEW MEXICO

LEGAL DESCRIPTION

TWO TRACTS OF LAND IN THE SOUTHWEST QUARTER (SW/4) OF SECTION 33, TOWNSHIP 17 SOUTH, RANGE 38 EAST, N.M.P.M., LEA COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT A:

BEGINNING AT A POINT WHICH LIES N00°02'02"E - 1145.47 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 33; THENCE N89°57'39"W - 300.00 FEET; THENCE N00°02'02"E - 290.40 FEET; THENCE S89°57'39"E - 300.00 FEET; THENCE S00°02'02"W - 290.40 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.00 ACRES OF LAND MORE OR LESS.

THE EAST 30' BEING SUBJECT TO A ROAD EASEMENT.

TRACT B:

BEGINNING AT A POINT WHICH LIES N00°02'02"E - 1435.87 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 33; THENCE N89°57'39"W - 300.00 FEET; THENCE N00°02'02"E - 882.12 FEET; THENCE S89°57'04"E - 300.00 FEET; THENCE S00°02'02"W - 882.07 FEET TO THE POINT OF BEGINNING AND CONTAINING 6.07 ACRES OF LAND MORE OR LESS.

THE EAST 30' BEING SUBJECT TO A ROAD EASEMENT.

OWNERS STATEMENT AND AFFIDAVIT

SAID TRACT IS BEING DIVIDED WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER(S) THEREOF, SURVEYED AND SUBDIVIDED ACCORDING TO THE TRACTS AS THEY APPEAR ON THE PLAT AFFIXED HEREON.

IN WITNESS WHEREOF, THE UNDERSIGNED OWNER(S) OF SAID LAND, HAVE HEREUNTO SET THEIR HAND THIS 13th DAY OF JULY, 2009.

Dale Eugene Shreffler Christine Shreffler
DALE EUGENE SHREFFLER CHRISTINE SHREFFLER
Dale Eugene Shreffler Christine Shreffler

ACKNOWLEDGMENT

STATE OF NEW MEXICO)

COUNTY OF LEA)SS

ON THIS 13th DAY OF July, 2009, BEFORE ME PERSONALLY APPEARED Dale Eugene Shreffler and Christine Shreffler, KNOWN TO ME TO BE THE PERSON(S) DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES: 2-14-2012

NOTARY PUBLIC

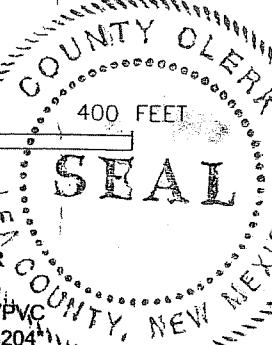


SURVEYOR'S CERTIFICATE

I, TERRY J. ASEL, NEW MEXICO REGISTERED PROFESSIONAL LAND SURVEYOR NO. 15079, DO HEREBY CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEETS THE "MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO" AS ADOPTED BY THE NEW MEXICO STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS.

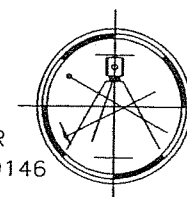
Terry J. Asel
Terry J. Asel N.M. R.P.S. No. 15079

7/8/2009
DATE



Asel Surveying

P.O. BOX 393 - 310 W. TAYLOR
HOBBS, NEW MEXICO - 575-393-9146



DALE E. AND CHRISTINE SHREFFLER	Work Order # 090623PS
Date Surveyed: 06/26/2009	Surveyed by: Terry Asel
DWG # 090623PS.dwg	Drafted By: KA
Scale: 1" = 200'	Sheet 1 of 1

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

August 6, 2009,

AT 9:46, O'Clock A Mand Recorded in Book 1Page 777

Pat Chappelle, Lea County Clerk

By CSandora Deputy

07656

55-1241

The remainder 6 acre tract was conveyed to Kody & Sheila Babb and a proposed subdivision, again exempt from County regulations, creating a 2 acre tract was submitted to staff thereafter. Staff denied the subdivision as proposed and recommended that Georgia Avenue be projected. Staffs denial was appealed to the COH Planning Board and a variance was subsequently granted based primarily upon the owner's assertion that they would retain the property, however the +/- 4 acre remainder tract created was subsequently conveyed to Mr. Menchaca.

09/02/10

**Dear Joe Dearing or
To Whom It May Concern:**

Our family has just purchased six acres of land on Rolling Meadows and wants to pursue the survey as platted so Georgia Ave will not be extended west from Isaac to Rolling Meadows. By doing so this would eliminate the street cutting through our property, which would clearly not serve any purpose do to the fact that it would dead end at Rolling Meadows due to a neighbor's house obstructing any furthering extension. Please consider this request so we will not have to use and divide our land for a street that will only extend one more block. Thank you for all your time and concern with this matter.

Sincerely,

**Kody and Sheila Babb
7622 Rolling Meadows
Hobbs NM 88242**

**575-390-4969
575-390-2033**

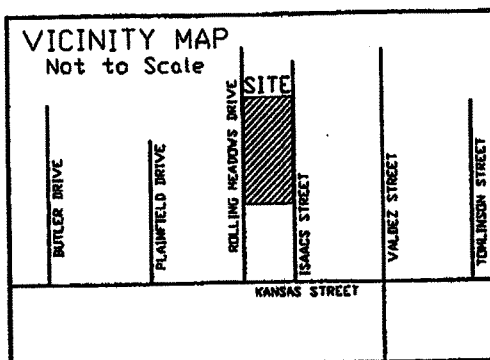
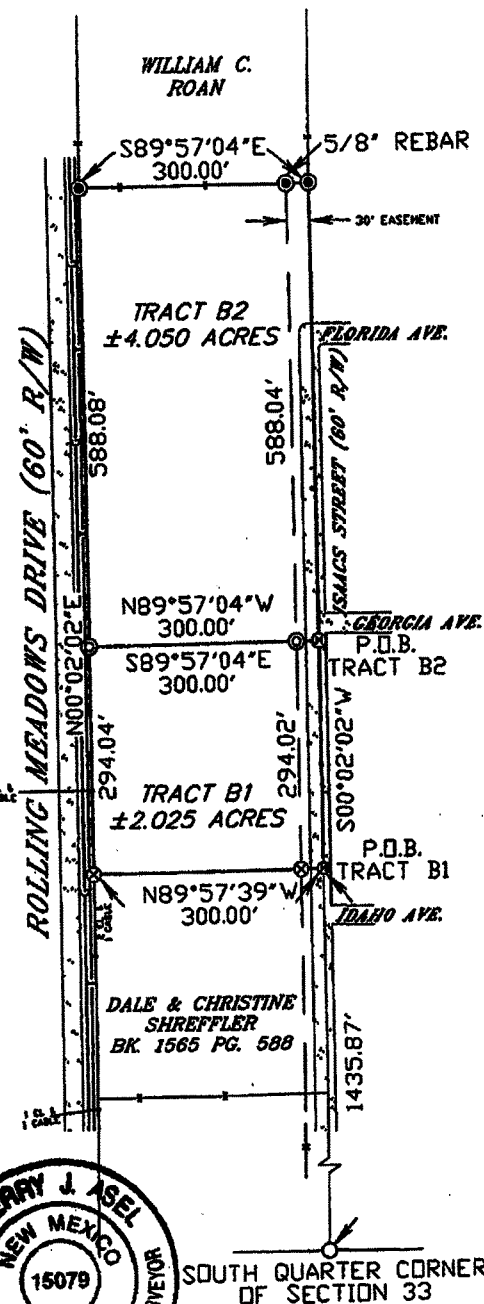
Mailing address:
6428 Kyle Dr
Lovington NM 88260

SURVEYORS CERTIFICATE
I, TERRY J. ASEL, NEW MEXICO REGISTERED PROFESSIONAL LAND SURVEYOR NO. 15079, DO HEREBY CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEETS THE "MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO" AS ADOPTED BY THE NEW MEXICO STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS.

Terry J. Asel
Terry J. Asel N.M. R.P.S. No. 15079

9/29/2010
DATE

23033



CERTIFICATE OF MUNICIPAL APPROVAL

I, JOE DEARING, THE DULY APPOINTED CITY PLANNER FOR THE CITY OF HOBBS, LEA COUNTY, NEW MEXICO, DO HEREBY CERTIFY THAT THE FOREGOING PLAT IN THE CITY OF HOBBS, LEA COUNTY, NEW MEXICO WAS REVIEWED AND DEEMED COMPLIANT WITH THE MUNICIPAL SUMMARY PROCESS REGULATIONS ON THIS 29th DAY OF September, 2010.

Joe Dearing
JOE DEARING, CITY PLANNER

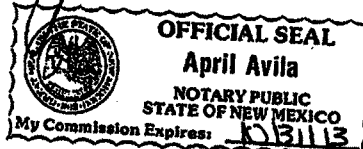
Jan Fletcher
JAN FLETCHER, CITY CLERK

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
COUNTY OF LEA)
ON THIS 29th DAY OF September, 2010, BEFORE ME PERSONALLY APPEARED JOE DEARING AND JAN FLETCHER, KNOWN TO ME TO BE THE PERSON(S) DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES: 02/11/13
April Avila
NOTARY PUBLIC



NOTES:
THESE TRACTS ARE BEING DIVIDED FROM A TRACT OF LAND CONVEYED TO KODY J. AND SHEILA M. BABB, HUSBAND AND WIFE AS DESCRIBED IN DEED BOOK 1688, PAGE 695 OF THE LEA COUNTY RECORDS.
ALSO BEING TRACT B OF THAT CERTAIN AMENDED PLAT TO OBTAIN LEA COUNTY EXEMPTION AND CITY OF HOBBS SUMMARY REVIEW DATED 6-23-10, FILED 6-30-10 IN BOOK 1, PAGE 832 OF THE LEA COUNTY RECORDS.

THIS SURVEY IS A DIVISION OF LAND FOR SALE, LEASE OR OTHER CONVEYANCE AND IS TO BE SUBMITTED FOR CLAIM OF EXEMPTION AS REQUIRED IN LEA COUNTY SUBDIVISION REGULATIONS ORDINANCE #35 AND THE NEW MEXICO SUBDIVISION ACT.

BEARINGS SHOWN HEREON ARE FROM WARRANTY DEED FILED IN BOOK 1634, PAGE 484 OF THE LEA COUNTY RECORDS.

UTILITIES SHOWN ARE APPROXIMATE LOCATIONS.

- LEGEND**
- ⊙ — DENOTES FOUND 1/2" REBAR UNLESS OTHERWISE NOTED
 - ⊙ — DENOTES SET 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" UNLESS OTHERWISE NOTED
 - ⊙ — DENOTES SET 1/2" REBAR W/PVC CAP MARKED "NM 15079 TX 5204" ON PREVIOUS SURVEY
 - ⊙ — DENOTES SET MAGNAIL W/WASHER MARKED "ASEL SURVEYING NM 15079"
 - ⊙ — DENOTES SET MAGNAIL W/WASHER MARKED "ASEL SURVEYING NM 15079" ON PREVIOUS SURVEY

BABB SUMMARY SUBDIVISION
A RE-SUBDIVISION OF LOT B OF THE AMENDED PLAT TO OBTAIN LEA COUNTY EXEMPTION AND CITY OF HOBBS SUMMARY REVIEW ON TWO TRACTS OF LAND IN THE SOUTHWEST QUARTER (SW/4) OF SECTION 33, TOWNSHIP 17 SOUTH, RANGE 38 EAST, N.M.P.M., LEA COUNTY, NEW MEXICO

LEGAL DESCRIPTION

TWO TRACTS OF LAND IN THE SOUTHWEST QUARTER (SW/4) OF SECTION 33, TOWNSHIP 17 SOUTH, RANGE 38 EAST, N.M.P.M., LEA COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT B1:
BEGINNING AT A POINT WHICH LIES N00°02'02"E - 1435.87 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 33; THENCE N89°57'39"W - 300.00 FEET; THENCE N00°02'02"E - 294.04 FEET; THENCE S89°57'04"E - 300.00 FEET; THENCE S00°02'02"W - 294.03 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.025 ACRES OF LAND MORE OR LESS.
THE EAST 30' BEING SUBJECT TO A ROAD EASEMENT.

TRACT B2:
BEGINNING AT A POINT WHICH LIES N00°02'02"E - 1729.89 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 33; THENCE N89°57'04"W - 300.00 FEET; THENCE N00°02'02"E - 588.08 FEET; THENCE S89°57'04"E - 300.00 FEET; THENCE S00°02'02"W - 588.04 FEET TO THE POINT OF BEGINNING AND CONTAINING 4.050 ACRES OF LAND MORE OR LESS.
THE EAST 30' BEING SUBJECT TO A ROAD EASEMENT.

OWNERS STATEMENT AND AFFIDAVIT

SAID TRACT IS BEING DIVIDED WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER(S) THEREOF, SURVEYED AND SUBDIVIDED ACCORDING TO THE TRACTS AS THEY APPEAR ON THE PLAT AFFIXED HEREON.

IN WITNESS WHEREOF, THE UNDERSIGNED OWNER(S) OF SAID LAND, HAVE HEREUNTO SET THEIR HAND THIS 29th DAY OF September, 2010.

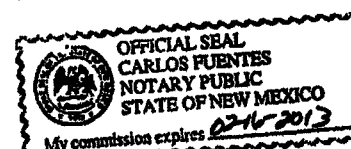
Kody J. Babb
KODY J. BABB
Sheila M. Babb
SHEILA M. BABB

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
COUNTY OF LEA)
ON THIS 29th DAY OF September, 2010, BEFORE ME PERSONALLY APPEARED Kody J. Babb & Sheila M. Babb, KNOWN TO ME TO BE THE PERSON(S) DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND DEED.

WITNESS MY HAND AND OFFICIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES: 02-16-2013
Carlos Fuentes
NOTARY PUBLIC



200' 0 200' 400 FEET
SCALE: 1" = 200'

Asel Surveying

P.O. BOX 393 - 310 W. TAYLOR
HOBBS, NEW MEXICO - 575-393-9146



KODY J. & SHEILA M. BABB	Work Order #100413PS (Rev. A)
Date Surveyed: 04/13/2010	Surveyed by: Terry Asel
DWG #100413PS (Rev. A).dwg	Drafted By: KA
Scale: 1" = 200'	Sheet 1 of 1

STATE OF NEW MEXICO
COUNTY OF LEA
FILED

October 8, 2010

AT 9:30 A.M.

and Recorded in Book

Page

Pat Chappells, Lea County Clerk

By *B. Webb* Deputy

23033

5-1269

5) Review and Consider Summary Subdivision Claim of Exemption submitted by Kody and Shelia Babb for land located on Rolling Meadows Drive in the SW 1/4 of Section 33, Township 17 S., Range 38 E., NMPM., Lea County, New Mexico.

Mr. Dearing said that staff has sent this item for the Planning Boards consideration. He said the separation of the two lots lines is up close to Georgia Avenue. He said there are several north-south streets with no east-west connections to them.

Ms. Shelia Babb said her and her husband purchased 6 acres this summer and have plans to build a house. She said the reason they are requesting the 6 acres be divided into 2 and 4 acres tracts is because they want to only put 2 acres on the note with the bank when they build their house. She said they bought the 6 acres so their children have plenty of room to play on. She said they do not want to their children to have to cross Georgia Street to go feed their animals.

Mr. Hicks asked if the county has seen this request yet. Mr. Dearing said no.

Mr. Hicks said he would suggest the Board approve the subdivision and ask that the owners be willing to work with the city and county to get an easement on one end or the other of their property.

Mr. Kesner made a motion, seconded by Mr. Drennan to approve the summary plat. The vote on the motion was 4-0 and the motion carried.

A TYPE THREE A SUBDIVISION, PREVIOUSLY TRACT B-2, OF BABB SUMMARY SUBDIVISION,
LOCATED IN THE SW1/4 OF SECTION 33, T17S, R38E, N.M.P.M., LEA COUNTY, NEW MEXICO



PROJECT SURVEYOR: K. Walker
 DRAWN BY: J. Esquivel



REVISIONS

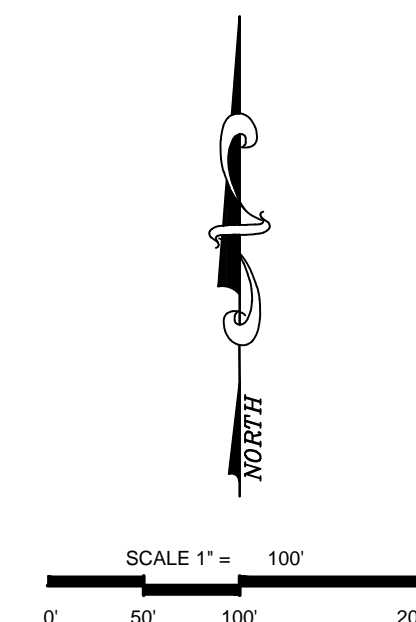
State of New Mexico, County of _____ ,
I here by certify that this instrument was filed for
record on:
















By _____,
County Clerk

A Type Three A Subdivision

PROJECT NUMBER:
2017.1026

SHEET: 1 of 2
SU - 101



	Found 1/2" rebar unless otherwise noted
	Set 5/8" rebar with red plastic cap marked "HICKS NMPS 12348" unless otherwise noted
	Calculated Point
	Found quarter section corner
	Power Pole
	Lot line
	Section line
	Property line
	30' Road Easement Line
 x x	Barbed wire fence
 OHE	Overhead electric
	Asphalt Road
	30' Road Easement dedication this plat
	Measured bearing and distance
	Record bearing and distance

The basis of bearing for this survey is Grid North based on the New Mexico State Plane Coordinate System, East Zone, as derived by GPS/GNSS observations. Ground coordinates were obtained from the State Plane Coordinate System by scaling about a control point located at BH011618H1A Y F64000H1G by a combined scale factor of 1.0001175665. True north can be obtained by applying a convergence angle of 00H06A at the Point of Beginning being a Found Mag Nail W/ Washer

April 17, 2018
Planning Board Regular Meeting

- 6) **Review and Consider variance from MC 15.32.030 & 15.32.140 as issued by this body on February 20, 2018, concerning a non-compliant Billboard located northeast of the intersection of Carlsbad Highway and Goings Lane.**

Kevin Robinson

From: Carl Baxley <carls_b@yahoo.com>
Sent: Thursday, April 12, 2018 9:08 AM
To: Kevin Robinson
Subject: Billboard

Kevin please place me on the P&Z agenda for the 17th so I may explain the change to the foundation on the billboard upgrade.

Thanks Carl

February 20, 2018
Planning Board Regular Meeting

- 9) **Review and Consider variance from MC 15.32.030 & 15.32.140 concerning the Reconstruction of an existing non-compliant Billboard located northeast of the intersection of Carlsbad Highway and Goings Lane.**

From: Carl Baxley <brightadsigns@windstream.net>
Sent: Monday, February 05, 2018 5:26 PM
To: Kevin Robinson
Subject: Variance request

Kevin

I would like to request a variance from planning and zoning committee on the location of the existing billboard located at 3300 W Marland. We would like to upgrade the board to an electronic double side message center. Please let me know if I can help further.

Carl

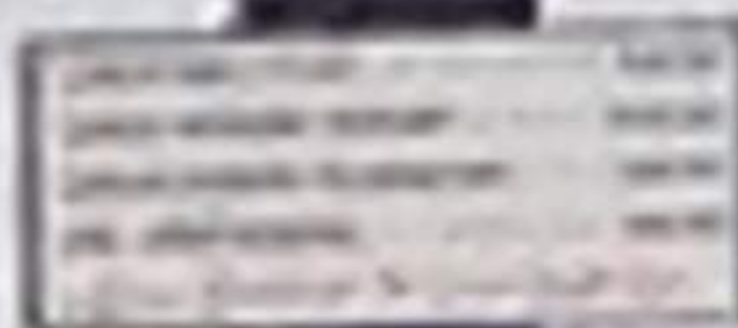
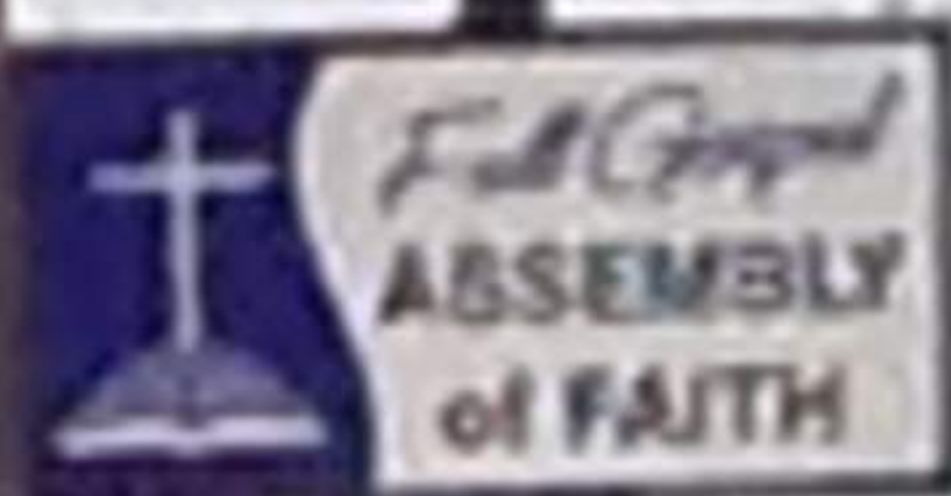


Full Gospel
ASSEMBLY
of FAITH

EDWIN SPENCER
SUN FEB 8TH
10:30 AM







KEVIN SPENCER
SUN. FEB 4TH
10:30 AM







ADVERTISE
HERE
875-500-8084

April 17, 2018
Planning Board Regular Meeting

- 7) **Review and Consider a proposed Right – of – way management Ordinance.**

Proposed Ordinance

City of Hobbs Municipal Code entitled “Right of Way Management Regulations”

Chapter 12.10 RIGHT OF WAY MANAGEMENT REGULATIONS

12.10.010 Title	2
12.10.020 Purpose.....	2
12.10.030 Definitions.....	2
12.10.040 Authority	4
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12.10.060 Permit required.....	4
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12.10.080 Placement of facilities.....	6
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12.10.100 Restoration.....	8
12.10.110 ROW Work Permits.....	8
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12.10.140 - Specifications generally.....	9
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12.10.160 Administration and permitting to use space within the right of way.....	10
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12.10.010 Title

This chapter is known and may be cited as the CITY OF HOBBS RIGHT OF WAY MANAGEMENT ORDINANCE.

12.10.020 Purpose

The city commission adopts this chapter to better:

- A. Manage a limited resource to the long term benefit of the public;
- B. Minimize inconvenience to the public occasioned by the emplacement and maintenance of facilities in the public rights of way;
- C. Establish clear and consistent rules governing work performed within and occupations of the public's right of ways.
- D. It is the intent of this ordinance to only address and/or allow the placement of facilities and work within public right of ways not addressed within other sections of the Hobbs Municipal Code.

12.10.030 Definitions

For the purposes of this chapter the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. Unless otherwise expressly stated, words not defined herein shall be given the meanings set forth in title 47 of the United States Code, as amended, and, if not defined therein, their common and ordinary meaning.

AFFILIATE: When used in relation to any person, means another person who de facto or de jure owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

CITY: City of Hobbs, New Mexico, and any agency, department, or agent thereof.

CITY MANAGER: The person appointed pursuant to section 6.2 of the City Charter or his/her designee.

CITY ENGINEER: The city engineer or the city engineer's designee.

COMMUNICATIONS FACILITY OR COMMUNICATIONS SYSTEM: Facilities for the provision of "communications services", as that term is defined herein.

COMMUNICATIONS SERVICES: Telecommunications services, interactive computer services, and any other services involving the transmission of information by electronic or optical signals, except that it shall not include cable service as that term is used in the cable communications policy act of 1984, as amended.

COMMISSION: The principal governmental body of the city of Hobbs, New Mexico, its officers, or a representative person or entity as may be designated to act on its behalf.

FACILITY OR FACILITIES: Any tangible asset in the public right of way used to provide drainage, sanitary or storm sewer, gas, electric, water, oil/gas pipelines or communication/information services.

FEDERAL COMMUNICATIONS COMMISSION OR FCC: The federal communications commission or any successor.

FRANCHISE: An authorization granted by the city to an entity to construct, maintain, or emplace facilities generally upon, across, beneath, and over the public rights of way in the city, subject to the terms and conditions specified in a franchise agreement. The term also includes an authorization by the New Mexico PRC or other appropriate authority or as otherwise authorized by law.

FRANCHISE AGREEMENT: The contract entered into between the city and a grantee that sets forth the terms and conditions under which the franchise may be exercised.

GRANTEE: A person that has been granted a franchise by the city or right to operate within Hobbs or such other parties that wish to locate facilities in the right of way.

INFRASTRUCTURE OR INFRASTRUCTURES: to have the same meaning as FACILITY OR FACILITIES.

OWNER OR OPERATOR OF A FACILITY: Any person which has a possessory interest in such facility or which controls or is responsible for, through any arrangement, the management and operation of such facility.

PERMITTEE: A person who has received a permit to locate a facility or facilities within the right of way.

PERSON: Any individual, corporation, partnership, association, joint stock company, trust, governmental entity, or any other legal entity, but not the city

PUBLIC RIGHTS OF WAY: The surface and space above, on, and below any public highway, avenue, street, lane, alley, boulevard, concourse, driveway, bridge, tunnel, park, parkway, public easement, or right of way within the city in which the city now or hereafter holds any property interest which, consistent with the purposes for which it was dedicated or otherwise acquired, may be used for the purpose of constructing, operating, and maintaining a facility.

TELECOMMUNICATIONS: This term has the meaning ascribed to it in 47 USC section

153(43). TELECOMMUNICATIONS SERVICE: This term has the meaning ascribed to it in 47 USC section 153(46).

ROW WORK PERMIT: A permit issued by the city to enter upon the public rights of way at specified times and places to erect, construct, emplace, or otherwise work on facilities.

ROW OCCUPANCY PERMIT: A permit granted to a person, outside of a franchise agreement, specifying the location and terms allowing facilities within public right of ways.

SIDEWALK: A hard surface pedestrian pathway located within the right of way. Sidewalks are private facilities required to be installed during the development of private property and are exempt from requiring a ROW Occupancy Permit.

12.10.040 Authority

The City Commission, pursuant to the general powers; body politic and corporate powers, Section 3-18-1 NMSA 1978, specifically, to protect generally the property of its municipality and its inhabitants and to preserve peace and order within the municipality, enacts the ordinance codified in this chapter.

12.10.050 Reservation of rights; police power

All rights and privileges granted in a franchise agreement are subject to the police powers of the city and its rights under applicable laws and regulations to exercise its governmental powers to their full extent and to regulate a grantee and the construction, operation and maintenance of the grantee's infrastructures, including, but not limited to, the right to adopt, amend, and enforce ordinances and regulations as the city shall find necessary in the exercise of its police powers, the right to adopt and enforce applicable building, permitting and safety ordinances and regulations, the right to adopt and enforce ordinances and regulations relating to equal employment opportunities, and the right to adopt and enforce ordinances and regulations concerning right of way, telecommunications, utility and cable television consumer protection and service standards and rate regulation provisions.

Further, nothing in this chapter shall prevent the City from constructing, repairing or replacing sewers; grading, paving, repairing, or replacing any right of way; or constructing, repairing, or replacing any other public work or facility, or from performing work pursuant to weather related activities or response to natural disasters. Nothing shall prevent the City from altering the layout or design of a right of way for public safety reasons.

12.10.060 Permit required

- A. No person shall install, erect, hang, lay, bury, draw, emplace, construct, reconstruct, maintain, or operate any facility upon, across, beneath, or over any public right of way in the city or other city property without first obtaining from the city the necessary permit(s) required under local, state or federal law.
- B. An owner or operator of facilities may be required to hold different permits for its use

of the public rights of way to provide different services. For example, and without limitation, the owner or operator of facilities that provides both cable service and wireless internet service must obtain both a franchise agreement and any permit(s) required for facilities to provide wireless internet service.

12.10.070 Construction standards

- A. Compliance with Regulations; Safety Practices: Construction, operation, maintenance, and repair of facilities shall be in accordance with all applicable law and regulation, and with sound industry practice. All safety practices required by law shall be used during construction, maintenance, and repair of facilities.
- B. Excavations: No holder of any work permit for any facility shall dig, trench, or otherwise excavate in the public rights of way without complying with the provisions of the New Mexico one call system.
- C. Prevention Of Failures And Accidents: An owner or operator shall at all times employ at least ordinary care and shall install and maintain using commonly accepted methods and devices preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public.
- D. Most Stringent Standards Apply: In the event of a conflict among codes and standards, the most stringent code or standard shall apply (except insofar as that standard, if followed, would result in a system that could not meet requirements of federal, state or local law, or is expressly preempted by other such standards).
- E. Construction Schedule: Every owner or operator shall, at least thirty (30) days prior to commencing significant construction activity (including a significant rebuild, upgrade, or repair to existing facilities)—emergencies excepted - upon, across, beneath, or over any public right of way in the city or other city property, strive to provide to the city in writing the date on which the owner or operator anticipates it will begin construction and the approximate length of time required for such construction. This timeframe represents a preference only.
- F. Coordination Of Construction With City: Prior to the erection, construction, upgrade, or rebuild of any facilities in the public right of way, the owner or operator of such facilities shall first submit to the city for written approval a concise description of the facilities proposed to be erected or installed, including engineering drawings, if required by the city, together with maps and plans indicating the proposed location of all such facilities. The owner or operator shall provide the best information it has in such reasonable format as may be specified by the city engineer for the city's planning function. No such erection or construction shall be commenced by any person until approval therefor has been received from the city. At the time of such approval, the city shall inform the grantee whether the reports and other information described by subsection 12.10.170 of this chapter shall be required with respect to the approved construction.

- G. **Coordination of Construction With Third Parties:** Developers or other parties planning the construction or opening of streets in the city shall provide reasonable notice to the city and to the owners or operators of facilities subject to this chapter so that joint trenching and joint emplacement of facilities may be conducted wherever practicable. Such owners and operators shall similarly provide notice to each other and to any relevant developers, for the same purpose. The city shall maintain a list of owners and operators of facilities subject to this chapter for reference by other parties.
- H. **City Engineer Stakeholder Meetings:** The city engineer may establish recurring meetings of businesses who make use of the right of way for their facilities and contractors who perform such work to discuss ongoing and upcoming projects to further the efforts of coordinating projects within the right of way.
- I. **Contractors and Subcontractors:** Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of facilities in the public rights of way must be properly licensed and insured under laws of the state and all applicable local ordinances. Each contractor or subcontractor shall have the same obligations with respect to its work as an owner or operator of the facility would have if the work were performed by the owner operator. An owner or operator shall be responsible for all activities carried out by its contractors, subcontractors and employees at the owner's or operator's request.
- J. **Publicizing Proposed Construction Work:** Except in the case of an emergency, before commencing a project (for which Franchisee, or its contractor, has pulled the applicable permit) in Rights-of-Way upon which residential property is located or is abutting thereto, Franchisee shall notify such abutting residents at least two (2) days prior to the date that Franchisee proposes to commence construction. Notice shall be in writing by one of the following methods: in person, by posted notice on the Rights-of-Way where the proposed project is scheduled to be built (which notice is to be capable of being read by passing motorists), by door hanger, or by mail, with a description of the proposed project and the name of Franchisee and its telephone number.`.

12.10.080 Placement of facilities

- A. All facilities shall be installed and located to minimize interference with the rights and convenience of other property owners.
- B. An owner or operator of a facility shall not place facilities, equipment, or fixtures where they will interfere with any other facilities, or obstruct or hinder in any manner the various utilities serving the residents of the city or their use of any public rights of way.
- C. The city may reasonably require the placement of facilities to ensure that users of the public rights of way do not interfere with each other and that the public rights of way are used safely and efficiently. For example, in the case of an owner or operator of a fiber optic network that is not a franchisee, the city engineer may order extra ducts for fiber

optic cable be installed for use by the city or other grantees or permittees when, in the opinion of the city engineer, the subject right of way is too congested due to existing facilities and space limitations or will likely be used by at least four other entities including the city for running fiber optic cable. Such company shall then certify to the city engineer the additional cost of said installation per linear foot which the city shall pay. Other future users of the surplus duct will be charged an upfront, one-time fee to locate in said duct to recover a proportional share of the city's upfront and carrying costs as calculated by the city engineer. This fee will be in addition to, and not in lieu of, any recurring, or one-time fee charged by city for location within the right of way.

- D. Every grantee or permittee that ceases operating or maintaining any facility shall, upon written request of the city within one (1) year of the cessation of maintenance of such facility, promptly remove it. Should the grantee or permittee neglect, refuse, or fail to remove such facility, the city may remove the facility at the expense of the grantee or permittee. The obligation to remove shall survive the termination of the franchise or permit for a period of two (2) years and shall be bonded. The city engineer may determine that it is in the best interests of the city to allow the facility to be wholly or partially abandoned in place.
- E. No owner or operator of a facility shall erect new aerial facilities, other than to repair existing facilities, in or on a public right of way in which both electric and telephone service providers have placed their lines underground, or within a subdivision which was originally developed to provide underground services.
- F. A grantee or permittee shall use, with the owner's permission, existing poles, conduits and other facilities whenever feasible. A grantee or permittee may not erect poles, conduits, or other facilities in public rights of way without the express permission of the city. Copies of agreements for use of conduits or other facilities shall be filed with the city upon city request.
- G. The city engineer may develop and institute a standardized cross-section location protocol for new or reconstructed rights of way.

12.10.090 Relocation of facilities

The owner or operator of a facility on or within the public rights of way shall, at its own expense, upon written notice from the city reasonably in advance, promptly relocate any facility located on or within the public rights of way as the city may deem necessary or appropriate to facilitate the realignment, reconstruction, improvement or repair of public streets, sidewalks, curbs, drains, sewers, and public improvements of any sort; provided, however, that an operator may be permitted to abandon any property in place with the written consent of the city. This subsection does not apply to relocations covered by 12.10.100(C).

12.10.100 Restoration

- A. Unless governed contractually between the owner or operator and its customer, if an owner or operator of a facility disturbs a pavement, sidewalk, driveway or other surfacing, or landscaping, or other structure, either on private property or in public rights of way, the owner or operator shall replace and restore all pavement, sidewalk, driveway or other surfacing, or landscaping disturbed, in substantially the same condition and in a good, workmanlike, timely manner, in accordance with any standards for such work set by the city. Such restoration shall be undertaken within no more than ten (10) days after the damage is incurred, weather permitting, and shall be completed as soon as reasonably possible thereafter. The owner or operator shall guarantee and maintain restoration of a public improvement for at least one year against defective materials or workmanship.
- B. In the event an owner or operator of a facility fails to complete any work required for the protection or restoration of the public rights of way, or any other work required by city law or ordinance, within the time specified by and to the reasonable satisfaction of the city, the city, following notice and an opportunity to cure, may cause such work to be done, and the owner or operator of a facility shall reimburse the city the cost thereof within thirty (30) days after receipt of an itemized list of such costs; or the city may recover such costs through the security fund provided by an owner or operator of a facility, pursuant to the procedures for recovery from the security fund specified in the owner's or operator's franchise agreement.
- C. Any and all public rights of way, public property, or private property that is disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, or reconstruction of a system shall be promptly repaired by the owner or operator of a facility.

12.10.110 ROW Work Permits

- A. Unless otherwise provided by law, franchise, city authorization or emergency circumstances, no person shall install, erect, hang, lay, excavate, bury, draw, emplace, construct, or reconstruct any facility upon, across, beneath, or over any public right of way in the city, or enter into the public rights of way to work on a facility, without first obtaining an ROW Work Permit therefor from the city. Notwithstanding the foregoing, under no provision in this chapter shall any ROW Work Permit or other approval from the city be required to install, construct, repair, maintain or replace any Franchisee service drop.
- B. Denial. The city engineer may deny a ROW Work Permit for failure to meet the requirements of this chapter, failure to meet monetary obligations to the city or if such denial is necessary to protect the health, safety and welfare or the right of way and its current use. Failure to meet the requirements includes, but is not limited to, striking or damaging another facility within the right of way.
- C. Large Capital Programs. The city engineer may develop and institute a special streamlined permit and inspection process for large capital programs by mutual agreement with the applicant or applicants in the case of a joint project after receiving

authorization from the city manager.

- D. The city engineer may issue a stop work order to anyone failing to secure the proper permit or for not following the ordinances or city standards.

12.10.120 Business license

A franchise under this chapter does not render unnecessary or take the place of any generally applicable business license that may be required by the city for the privilege of transacting and carrying on a business within the city generally.

12.10.130 - Sidewalk required for new construction.

Any person erecting a new building shall be required to install a sidewalk adjacent to the street, in accordance with the requirements established by the Engineering Department; provided, that on corner lots sidewalks shall be constructed along both intersecting streets to the next adjacent property.

12.10.140 - Specifications generally.

All sidewalks constructed, improved, repaired or altered must conform with the grade, width, location and construction methods and materials as established by the Engineering Department of the City, and such construction shall be approved by the Engineering Department. Sidewalks so constructed must extend the total length and width of any lot or area that abuts the street. Where a permit has been issued to construct, improve, repair, alter or remove a commercial building, sidewalks shall be constructed in accordance with such specifications established by the Engineering Department; provided, that if existing sidewalks conform with such specifications, no additional construction will be required; provided, further, that sidewalk construction will only be required in areas where curbs and gutters have been constructed. Authority to commence construction shall be evidenced by the issuance of a permit, as set forth in Section 15.04.030.

12.10.150 - Abatement of sidewalk / driveway constructed in violation of chapter as nuisance—Lien

Any sidewalk constructed in violation of this chapter shall be deemed a nuisance and shall be abated by the City against the owner of the property upon which such sidewalk abuts and adjacent to the construction of such sidewalk. The City may proceed to reconstruct such sidewalk in conformity with the grade, width, location and construction requirements established by the Engineering Department; and the costs thereof shall be chargeable to the owner of such property adjacent thereto. In such event, the City shall have a lien upon the property affected for the expense of such reconstruction, and such lien may be enforced and foreclosed as are other liens of like nature. For sidewalks with tripping hazards, the City may address this under a policy to remediate these hazards.

12.10.160 Administration and permitting to use space within the right of way

The city engineer shall oversee the following administrative functions:

- A. Collect, or cause to be collected, any applicable fees from all owners or operators of facilities using public rights of way in the city;
- B. The City Commission shall approve by resolution the amount and formula for a right of way occupancy fees;
- C. Be responsible for the continuing enforcement of all terms and conditions of city-granted franchises as such pertains to the occupation of public right of ways.

The city engineer shall oversee permitting as follows:

- A. The city shall not grant, issue, or enter into any franchise or occupation permit that grants or allows exclusive use or occupancy of the right-of-way.
- B. The city shall not grant or issue a ROW Occupation Permit for any facility, proposed to be emplaced after the adoption of this code, having a height in excess of 40' as measured vertically from the nearest adjacent public improvement.
- C. An application for a Franchise, ROW Occupation Permit or ROW Work Permit shall be filed with the city engineer on a form developed and provided by the city engineer.

Authority to issue permits; form of permits and term.

- A. Permits required by this chapter shall be issued by the city engineer. The city engineer shall review each application and shall issue each permit which he or she determines to be in compliance with the requirements of this chapter and any other applicable local, state, or federal requirements. In issuing a permit, the city engineer may require a change in the proposed location of the permittee's infrastructures where necessary to avoid interference with other infrastructures within the public right-of-way.
- B. Permits issued pursuant to this chapter shall be in writing and shall be executed by the permittee. The form of permits to be issued shall be uniform, but shall be subject to periodic review and modification. When available, the city engineer may implement an electronic or digital permit system.
- C. Limit on term of franchises; limit on initial or renewal term of permits.
 - (1) No franchise for use of the public right-of-way shall be granted for a term in excess of 10 years.
 - (2) No ROW Occupancy permit granted by the city engineer shall be issued or

renewed for a term in excess of 10 years.

- D. Existing Facilities. Non-franchisee facilities ~~emplaced~~ and existing prior to the adoption of this Ordinance located within a previously granted easement are exempt from the issuance of a permit.
- E. Application for initial issuance of a permit; registration required.

A person desiring to obtain a ROW Occupancy Permit as required in this code shall make application for a permit for such use and occupancy as provided in this chapter, and shall pay an application fee for initial issuance of the permit. The application fee for initial issuance of a permit and any future changes thereto shall be effective upon its inclusion in a schedule of fees adopted by the city commission by resolution such fee shall be based upon the administrative costs of processing the permit. The application for initial issuance of a ROW Occupancy Permit shall be filed with the city engineer not less than 60 days prior to the proposed effective date of the permit and shall be filed upon a form provided by the city for that purpose. The application shall include, at a minimum, the following information:

- (1) The name, address and telephone number of the applicant.
- (2) The name, address and telephone number of a responsible person whom the city may notify or contact at any time or in case of emergency concerning the infrastructures.
- (3) A statement of the purpose for the infrastructures proposed for installation in the public right-of-way, the type of service it will provide, and the intended customers\person which it will serve.
- (4) Any additional information which the city engineer in his or her discretion may require.

- F. Issuance and renewal of permits; permit revocation and cancellation.

To obtain renewal of a ROW Occupancy Permit, the permittee shall file a renewal application with the city engineer on the form provided by the city and pay an application fee for renewal of the permit. The renewal application fee and any future changes thereto shall be effective upon its inclusion in a schedule of fees adopted by the city commission by resolution. The renewal application shall be filed with the city engineer not less than 180 days prior to the expiration of the initial or any renewal term of the permit. Upon receipt of the renewal application, the city engineer shall conduct a review of the permittee and the permittee's prior use of the public right-of-way to determine the permittee's continued compliance with the requirements as stated herein. If on the basis of such review the city engineer determines that the permittee and the permittee's prior use of the public right-of-way complies with all requirements, the city engineer may renew the permit for an additional term of up to 10 years.

If on the basis of such review the city engineer determines that the permittee and the permittee's

use of public right-of-way do not comply with one or more of the requirements as herein stated, the city engineer shall give notice of intent not to renew the permit. If a permittee holds multiple permits for use or occupancy of various rights-of-way within the city for the same or similar purpose, the permittee shall be required to renew all such permits under a single permit at such time as the earliest issued permit expires.

In determining the length of the term of an initial or a renewal permit, the city engineer shall take into consideration the likelihood that the city will require the use of the specific portion of the subject right-of-way for municipal purposes or that such use of the subject right-of-way will unduly burden the city or the public in its use of the subject right-of-way during the proposed term of the permit and the life cycle of the facilities to be deployed. A permit shall not be issued or renewed if the city engineer determines that any of the following conditions exist in the right-of-way proposed for permitting:

- (1) There is insufficient space in the right-of-way to accommodate the proposed use, given the other existing uses thereof;
- (2) The proposed facilities would interfere with or conflict with existing or planned city infrastructures or Franchisees infrastructures located or planned to be located in the right-of-way;
- (3) Such use is incompatible with adjacent public or private uses of that right-of-way;
- (4) Such use would involve an unacceptably high frequency of repair or maintenance to the facility thereby requiring excessive excavation in or obstruction of the right-of-way; or
- (5) The construction or installation of such facility would interfere with a public improvement undertaken or to be undertaken by the city or with an economic development project in which the city has an interest or investment.

If during the term of any permit the city engineer determines that the permit should be revoked due to the permittee's failure to comply with any of the requirements herein stated, the city engineer shall give notice of intent to revoke such permit.

- G. The following shall constitute grounds for refusal to issue or renew a permit, or for revocation of a permit for use or occupancy of public right-of-way:

The permittee's failure to observe or comply with any of the following:

- (1) The permittee's use or prior use of public right-of-way has been conducted in full and timely compliance with all laws and regulations applicable thereto, and the permittee has complied fully and in a timely manner with the requirements of any

previously issued permit, and with the orders or instructions of city officials issued pursuant to this chapter; or

- (2) The permittee is current in the payment of permit fees, if applicable, and the permittee has made such payments fully and when due.
- (3) The permittee's commission of any of the following acts:
 - (a) The permittee has made a misleading statement or a material misrepresentation in connection with an application for initial issuance or renewal of a permit, in connection with its registration of its use of the public right-of-way or in connection with its use of public right-of-way; or
 - (b) The permittee has transferred its equipment, its business, or its permit to another person or has made a change in use of its equipment, without giving the city notice thereof and obtaining city consent thereto; or
 - (c) Striking or damaging another facility within the right of way.
 - (d) The subject right of way is highly congested and a reasonable likelihood exists in the city engineer's opinion that the space is needed in the future for a different service to a broader segment of the population.

The city engineer shall give notice of intent to cancel such permit if during the term of any permit the city engineer determines that:

- (1) The permittee's continued use of the public right-of-way will unduly burden the city or the public in its use of that property;
- (2) The public right-of-way for which the permit was issued will be required for municipal purposes during the term of the permit;
- (3) The permittee's equipment at a particular location will interfere with:
 - (a) A present or future city use of the right-of-way;
 - (b) A public improvement undertaken or to be undertaken by the city;
 - (c) An economic development project in which the city has an interest or investment;
or
 - (d) The public's safety or convenience in using the right-of-way for ordinary travel; or
 - (e) The public health, safety and welfare requires it.

Notice of intent not to renew a permit for use of the public right-of-way shall be given to the permittee, either by certified mail, return receipt requested, or by actual service or delivery thereof, which notice shall be given not more than 90 days after submission of the renewal application. Notice of intent to revoke or cancel a permit shall also be given to the permittee in the manner provided above. The notice shall set forth the grounds for refusal to issue or renew or for revocation or cancellation and shall inform the applicant or permittee of the right to an appeal hearing upon request. Such request for hearing shall be filed in writing with the Planning Department, and the hearing shall be scheduled and held by the Planning Board at their next regularly scheduled public meeting. At the hearing, the applicant or permittee shall have the burden of establishing that the grounds asserted in the notice do not exist. Upon the effective date of revocation or cancellation as provided in the city engineer's notice thereof, or upon the effective date specified in the city engineer's written decision upon the permittee's appeal, the permittee shall be required to cease its use and occupancy of the right-of-way or to remove or relocate its equipment therefrom, as provided in the notice or decision. Equipment not removed or relocated from the right-of-way as required in such notice or order shall be considered a nuisance and may be removed, relocated, or taken possession of by the city, at the permittee's expense. Except in emergency circumstances, the requirement to relocate, remove, or cease use of equipment shall be suspended during the pendency of any appeal taken by a permittee.

If a permit is refused or cancelled upon the basis that the subject city property is or will be required for municipal purposes, the applicant or permittee shall not be entitled to an appeal. However, in that event, the permittee shall be entitled to a partial refund of the annual fee already paid, such refund to be computed on the basis of 1/12 of the required annual fee multiplied by the number of unexpired whole months of the year remaining in the permit term. In all other cases where a permit is not issued or renewed or is revoked, no refund of any portion of the required annual fee shall be paid to the permittee.

Notwithstanding the notice and hearing requirements above, the city engineer may, in emergency circumstances, order the immediate relocation or removal of equipment from the right-of-way.

Regardless of any other provision, a refusal, cancellation or revocation may be appealed under the applicable processes specified in local, state or federal law.

Failure to secure, renew or comply. Any person who fails to secure or renew a franchise or permit required under this chapter or any franchisee or permittee who fails to comply with the requirements of the respective franchise or permit, or this chapter, or with any other applicable legal requirements shall, upon notification of such violation by the city engineer, immediately act either to abate the violation or to cease its use and occupancy of the right-of-way and remove its equipment or system from the right-of-way.

H. Transfer of franchise, permit, lease, business, or equipment without city's consent; change in

use of equipment without city's consent.

A permit issued pursuant to this chapter shall not be transferred to any other person without the prior written notice to the city engineer. A permittee shall not transfer the permit, the business, or the equipment in the right-of-way to another person without giving the city engineer 90 days' prior written notice of such proposed transfer. In such notice, the permittee shall clearly identify the proposed transferee, giving the name and address of a representative of the transferee who is authorized to discuss and provide information to the city regarding the transfer.

A franchisee or permittee shall not change the use of its equipment without giving the city 90 days' prior written notice of such proposed change in use. In such notice, the franchisee or permittee shall clearly and completely set forth the proposed change in use of equipment, how it would be accomplished, including any excavations required to accomplish such change, and projections as to the future maintenance implications of such change in use. Any proposed change in use of franchisee's or permittee's equipment shall require the prior approval of the city engineer. Such approval may be withheld if the city engineer determines that the proposed use of the equipment at that location would be incompatible with or would likely damage or endanger other uses of the right-of-way, would involve a higher level of maintenance activities than the present use, would involve more street excavation or greater traffic disruption than the present use, or would be otherwise inappropriate.

I. Amendment to permit.

If a permittee with a current permit issued pursuant to this chapter proposes to expand, reduce, relocate or modify any portion of its equipment or system within public right-of-way, the permittee shall file an application for an amendment to the current permit with the city engineer, shall pay the administrative application fee, and shall further comply with all other applicable requirements of this chapter. An application for an amendment to a current permit shall include relevant new information of the type required in connection with the initial application for a permit. If approved, the amended permit shall be issued by the city engineer in the same manner as the original permit. However, if the amendment involves only one or more new hook-on connections to the permitted utility system and if the new connections will be made entirely through the permittee's existing underground utility conduit or ducts so as not to require any excavation in the public right-of-way or by means of overhead wires or cables between existing utility poles, the permittee shall not be required to pay an additional administrative fee as part of the application for amendment.

J. Duties of permittee.

The permittee shall be responsible for repairing or reimbursing other permitted or franchised utilities or other persons or entities lawfully using the right-of-way for any damage to their property caused by negligence of the permittee or its agents, employees or contractors in connection with the installation, construction, reconstruction, repair, operation, disconnection or removal of the permittee's equipment or system.

12.10.170 Reports and records

Upon request, the city shall have the right to inspect and analyze at any time during normal business hours at the nearest office of an owner or operator of facilities, or, if such office is not in the city, then at such other location in the city as the city may reasonably designate, all books, receipts, maps, records, codes, programs, and disks or other storage media and other like material reasonably appropriate in order to monitor compliance with the terms of this chapter or applicable law. This includes not only the books and records directly relevant to enforcement of this chapter or the owner's or operator's franchise agreement that are held by the operator, but any books and records held by an affiliate, or any contractor, subcontractor or any person holding any form of management contract for the facilities in the public rights of way to the extent such books or records relate to the facilities. An owner or operator is responsible for collecting the information and producing it at a location as specified above. The city shall provide the owner or operator with advance notice stating the types of records sought to be reviewed and the reason for such review.

Contacts and maps: Unless this requirement is waived in whole or in part in writing by the city each owner or operator of facilities in the public rights of way shall maintain and produce or allow access upon request the following items:

An organizational chart with contact information for the portion of the organization most relevant to its operations within the right of way.

Detailed, updated electronic maps, in a format specified by the city, depicting the location of all facilities located in public rights of way.

Construction Updates: Unless this requirement is waived in whole or in part by the city, the owner or operator of facilities in the public rights of way shall deliver or make available upon request the following updates to the city:

Monthly construction reports to the city for any major construction undertaken in the public rights of way until such construction is complete. The owner or operator must submit updated as built system design maps to the city, or make them available for inspection, with notice of their availability, within thirty (30) days of the completion of system construction in any geographic area. These maps shall be developed on the basis of post-construction inspection by the owner or operator and construction personnel. Any departures from design must be indicated on the as built maps.

Records Required: An owner or operator of facilities in the public rights of way shall at all times maintain:

A full and complete set of plans, records, and "as built" maps showing the exact location of all equipment installed or in use in the city, exclusive of customer service drops.

A file showing its plan and timetable for future major construction of the facilities.

Remote Site Visit: If any requested records, maps or plans, or other requested documents are too

voluminous, or for security reasons cannot be copied and moved, then an owner or operator of facilities in the public rights of way may request that the inspection take place at some other location; provided, that the owner or operator must pay reasonable travel expenses incurred by the city in inspecting those documents or having those documents inspected by its designee, as charges incidental to the enforcing of the owner's or operator's franchise or other authorization for use of the public rights of way.

12.10.180 Bond or letter of credit

No person shall install, erect, hang, lay, bury, draw, emplace, construct, reconstruct, maintain, or operate any facility upon, across, beneath, or over any public right of way in the city or other city property until the owner or operator shall have filed with the city administrator a bond and/or letter of credit, in a form acceptable to the city, running in favor of the city, to guarantee the obligations of the owner or operator under this chapter and applicable law. The amount of the bond or letter of credit shall be no less than the reasonable cost of removal of the facilities and restoration of any affected public rights of way or other property pursuant to this chapter.

12.10.190 Insurance

An owner or operator shall maintain insurance covering its facilities and operations in the public rights of way, as specified in a specific provision of this chapter or in its franchise agreement. Upon request, proof of such insurance shall be submitted to the city engineer prior to beginning any said work.

12.10.200 Enforcement

Penalties: For violation of provisions of this chapter the city may seek fines in the amounts of \$100 for a first offense within a year, \$200 for a second offense within a year, and \$300 for a third or subsequent offense within a year. The penalties shall be assessable against an owner or operator and shall be chargeable to its performance bond and/or letter of credit, at the city's discretion.

Injunctive Relief: In addition to any other remedies hereunder, the city may seek an injunction to mitigate or terminate a violation, or employ any other remedy available at law or equity, including, but not limited to, imposition of penalties.

Timely Performance Or Compliance: Any failure of the city to insist on timely performance or compliance by any person shall not constitute a waiver of the city's right to later insist on timely performance or compliance by that person or any other person.

Termination On Account Of Certain Assignments Or Appointments:

To the extent not prohibited by the United States bankruptcy code, a franchise under this chapter shall terminate automatically by force of law one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee (including a debtor in possession in a reorganization) to take over the business of the owner or operator, whether in bankruptcy or under a state law proceeding; provided, however, that such franchise shall not so

terminate if, within that one hundred twenty (120) day period:

Such assignment, receivership or trusteeship has been vacated; or

Such assignee, receiver, or trustee has cured any defaults and has fully complied with the terms and conditions of this chapter and any applicable agreement and has executed an agreement, approved by any court having jurisdiction, under which it assumes and agrees to be bound by the terms and conditions of this chapter and any applicable agreement.

In the event of foreclosure or other judicial sale of any of the facilities, equipment, or property of an owner or operator of facilities in the public rights of way, its franchise under this chapter shall automatically terminate thirty (30) calendar days after such foreclosure or sale, unless:

The city has approved a transfer to the successful bidder; and

The successful bidder has covenanted and agreed with the city to assume and be bound by the terms and conditions binding its predecessor. Any mortgage, pledge or lease of facilities in the public rights of way shall be subject and subordinate to the rights of the city under this chapter any applicable agreement, and other applicable law.

If a franchise under this chapter is terminated for any reason, the city may, at its discretion, require the grantee or permittee to remove its facilities from the public rights of way and to restore the public rights of way to their prior condition at the owner's or operator's expense, or that of their sureties. If an owner or operator whose franchise has been terminated fails, after reasonable notice from the city, to remove its facilities from the public rights of way, such facilities shall be deemed abandoned and ownership forfeited to the city.

Remedies Cumulative: All remedies specified in this chapter are cumulative unless otherwise expressly stated. The exercise of one remedy shall not foreclose use of another, nor shall the exercise of a remedy or the payment of liquidated damages or penalties relieve an operator of its obligations to comply with this chapter. In exercising any remedy specified in this chapter, including articles A and 8, the city shall comply with any substantive and procedural requirements for exercising such remedies in an owner's or operator's franchise agreement or other authorization.

Reduce or Waive Penalties: The city engineer or attorney may reduce or waive any of the above listed penalties for good cause shown.

12.10.210 Indemnification

Any indemnity provided shall include, but not be limited to, the city's reasonable attorney fees incurred in defending against any such claim, suit, or proceeding. Recovery by the city of any amounts under insurance, the performance bond or letter of credit, or otherwise shall not limit in any way a person's duty to indemnify the city, nor shall such recovery relieve a person of its obligations pursuant to a franchise or in any respect prevent the city from exercising any other right or remedy it may have.

12.10.220 Severability

If any term, condition, or provision of this chapter shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the city and shall thereafter be binding on owners and operators.

SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

EFFECTIVE DATE. This ordinance shall be in full force and effective after its final passage and publication as by law provided.

April 17, 2018
Planning Board Regular Meeting

8) DISCUSSION ITEM

A) Review & discuss Planning District Map for Mobile Home Parks (MHP), Recreational Vehicle Parks (RVP) and Mobile Home Subdivision Planning District (MHS), as per MC 18.04.040-A.

Title 18

PLANNING AND DEVELOPMENT

Chapter 18.04 Manufactured Homes

- 18.04.010 General provisions.
- 18.04.020 Definitions relating to mobile homes and manufactured homes.
- 18.04.030 Permitted locations for mobile homes, manufactured housing, recreational vehicles and travel trailers within the City of Hobbs.
- 18.04.040 Permitted locations for mobile home park planning districts, recreational vehicle planning districts and mobile home subdivision planning districts.
- 18.04.050 Special use permit approval procedures for planning district map amendment.
- 18.04.060 Design standards.
- 18.04.070 City permits required; inspections and permit approval procedures.
- 18.04.080 Administrative procedures.
- 18.04.090 Site plan review.
- 18.04.100 Appeals.
- 18.04.110 Enforcement and implementation.

Chapter 18.08 Rural and Open Space Planning Districts

- 18.08.010 Purpose and intent of Rural and Open Space Planning District.
- 18.08.020 Rural and Open Space Planning District standards.
- 18.08.030 Special use permit approval procedures for Rural and Open Space Planning District.
- 18.08.040 Special conditions, exceptions and enforcement.
- 18.08.050 Violations.

Chapter 18.12 Tower Regulation Ordinance

- 18.12.010 Purpose.
- 18.12.020 Definitions.
- 18.12.030 Tower permit required.
- 18.12.040 Exemptions.
- 18.12.050 Location of towers.
- 18.12.060 Tower structure.
- 18.12.070 Fencing requirements.
- 18.12.080 Landscaping.
- 18.12.090 Signs and lighting.
- 18.12.100 Application procedures for a tower permit.
- 18.12.110 Tower permit issuance and indemnification.
- 18.12.120 Notification procedures.
- 18.12.130 Variance requests and procedures.
- 18.12.140 Building permit requirement and plan review.
- 18.12.150 Maintenance and inspection.
- 18.12.160 Abandonment and removal of towers.
- 18.12.170 Tower parcel requirements.
- 18.12.180 Small wind energy towers (SWET).
- 18.12.190 Amateur radio antennas and towers.
- 18.12.200 Cumulative effect.
- 18.12.210 Transitional provision.
- 18.12.220 Appeals.
- 18.12.230 Enforcement and implementation.
- 18.12.240 Fees.

Chapter 18.04

MANUFACTURED HOMES*

* **Editors Note:** Ord. No. 980, § 1D(2)--(12), adopted March 17, 2008, amended Ch. 15.24, in its entirety, to read as herein set out. Prior to inclusion of said ordinance, Ch. 15.24 pertained to similar subject matter. See the Code Comparative Table and Disposition List for a detailed analysis of inclusion.

Editors Note: Contained herein are the provisions of the former Ch. 15.34. Upon the request of the city, dated 6-8-2010, Ch. 15.24 has been redesignated as Ch. 18.04 of Title 18, Planning and Development. The historical notations have been preserved for reference purposes.

18.04.010 General provisions.

A. The purpose of this chapter is to guide the orderly growth and development of Hobbs in accordance with the City of Hobbs Comprehensive Plan in order to protect health, safety and general welfare of current and future inhabitants of the City of Hobbs, New Mexico, and, in particular, to protect their interests from adverse impacts of land use including to protect the City's residential areas from the haphazard, disorganized and indiscriminate location throughout the City of mobile homes as defined in NMSA 3-21A-2(B).

B. This chapter is adopted pursuant to the authority granted by the Constitution and laws of the State of New Mexico, including but not limited to, that contained in NMSA 3-21A et. seq. as amended and pursuant to the Manufactured Housing Requirements adopted by the New Mexico Manufactured Housing Division Title 14, Chapter 12, Part 2, the Manufactured Housing Act pursuant to 60-14-1 through 60-14-20 NMSA and the HUD 3280 Manufactured Housing Construction and Safety Standards and the HUD 3282 Procedural Enforcement Regulations.

C. This chapter shall become effective from and after the date of its approval and adoption as provided by law.

D. *Relationship to Comprehensive Plan.* It is the intention of the City that these regulations are adopted in conformance with and to implement the Hobbs Comprehensive Plan. Consistent with Section 3-21-5, NMSA 1978, these regulations are designed to: lessen congestion; secure safety from fire, flood waters, panic, and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; and control and abate the unsightly use of buildings or land. Also, it is the intention of the City in adopting these regulations, to give reasonable consideration, among other things, to conserving the value of buildings and land throughout its jurisdiction.

E. *Relationship to Other City Regulations and Private Deed Restrictions.*

1. If any provision of these regulations imposes a higher standard than that required by any other City regulation not contained in these planning regulations, the provisions of this chapter control. If any provision of any City regulation not contained in these planning regulations imposes a higher standard that regulation controls.
2. *Relationship to Private Restrictions.* The provisions of this chapter are not intended to abrogate any deed restriction, covenant, easement or any other private agreement or restriction on the use of land; provided however that where the provisions of this chapter are more restrictive or impose higher standards than a private restriction, the requirements of this chapter shall control. Private restrictions shall not be enforced by the City.

F. *Effect on Existing Permits.* This chapter is not intended to abrogate or annul any permits issued before the effective date of the provisions of this chapter.

G. *General rules and regulations.*

1. The issuance of a manufactured home building permit does not release the applicant from conditions of any applicable subdivision restrictive covenants or deed restrictions or Manufactured Housing Division regulations.
2. Manufactured homes are prohibited for commercial use unless the unit is brought into compliance for commercial use. A building permit is required before final approval and a certificate of occupancy is granted.
3. No manufactured home shall be a nuisance to public safety by creating fire hazards or any hazard to life. If found to be hazardous to life as stated, the City may take action to remove, relocate, clean or clear the property as stated in Chapter 8.24.
4. No manufactured home, recreational vehicle, travel trailer or similar use, shall be used as an addition to a regular dwelling unit.
5. No two (2) singlewide manufactured homes are to be used as a multiunit unless the mobile home is designed and made to comply with manufactured housing division regulations.
6. *Grandfather clause.*
 - a) If a residence is condemned or burned in an area where no manufactured housing is allowed, a multi-section manufactured housing unit will be allowed for placement providing all other City and State requirements are satisfied, including private deed restrictions.
 - b) An existing mobile home park having a minimum of four (4) spaces shall be allowed to remain in place providing that the requirements of this chapter are met; the mobile home park was fully operational at the time of adoption of this chapter; and the mobile home park is operated continuously without a twelve-month break in operation following the effective date of this chapter.

(Ord. No. 980, § 1D(2), 3-17-2008)

18.04.020 Definitions relating to mobile homes and manufactured homes.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Aggrieved Party - Any person who has a property interest that may be directly impacted by a decision of the City Planning Board.

Attached Housing Unit - A housing unit or residential structure that is attached to another residential structure, such as a unit in a duplex or four-plex or an attached townhome or condominium with a common wall to another housing unit.

Comprehensive Plan and Major Thoroughfare Plan - The term "Comprehensive Plan" shall mean the most recently adopted Comprehensive Plan for the City of Hobbs, including text, tables, maps and subsequent amendments and the adopted "Major Thoroughfare Plan" and the adopted "Hobbs Urban Growth Map".

Detached Housing Unit - A housing unit or residential structure, including any attached carport or garage that is designed, constructed and/or located as a separate residential housing structure with complete separation from any other adjacent residential structure. A mobile home, manufactured home, whether single wide or multi-section, is defined as a detached housing unit, and as such is not designed to connect with a common wall to another housing unit.

Manufactured Home - Means a movable or portable housing structure over thirty-two (32) feet in length and over eight (8) feet in width constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and which may include one (1) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or may be two (2) or more units separately tow-able but designed to be joined into one (1) integral unit, as well as a single unit. "Manufactured home" does not include recreational vehicles or modular or pre-manufactured homes, built to Uniform Building Code standards, designed to be permanently affixed to real property. "Manufactured home" includes any movable or portable housing structure over twelve (12) feet in width and forty (40) feet in length which is used for nonresidential purposes.

Manufactured Housing - As used in the Manufactured Housing and Zoning Act [3-21A-1 NMSA 1978]: "multi-section manufactured home" means a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six (36) by twenty-four (24) feet and at least eight hundred sixty-four (864) square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974, and the Housing and Urban Development Zone Code 2 or the International Building Code, as amended to the date of the unit's construction, and installed consistent with the New Mexico Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations.

Mobile Home Park - shall have the meaning provided in Section 47-10-2 NMSA, 1978, as amended: a parcel of land used for the continuous accommodation of twelve (12) or more occupied mobile homes and operated for the pecuniary benefit of the owner of the parcel of land, his agents, lessees or assignees. "Mobile home park" does not include mobile home subdivisions or manufactured home subdivisions.

Mobile Home - Single Wide (Trailer) - As used in the Manufactured Housing and Zoning Act [3-21A-1 NMSA 1978]: "mobile home means a movable or portable housing structure larger than forty (40) feet in body length, eight (8) feet in width or eleven (11) feet in overall height, designed for and occupied by no more than one (1) family for living and sleeping purposes that is not constructed to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974, and the Housing and Urban Development Zone Code 2 or International Building Code, as amended to the date of the unit's construction or built to the standards of any municipal building code.

Mobile Home Subdivision - a subdivision on a parcel of land a minimum of one (1.0) acre and designed and developed for long term residential use and intended for sale or use where the principal residential structures are either mobile homes or manufactured housing.

Modular Housing or Modular Structures - Residential Housing and other structures which are regulated pursuant to the State of New Mexico Administrative Code Title 14, Housing and Construction, Chapter 12 Manufactured Housing, Part 3 Modular Structures.

NMAC or NMAC Rules - shall mean the State of New Mexico Administrative Code Title 14, Housing and Construction, Chapter 12 Manufactured Housing or subsections thereof.

Non-Conforming Mobile Home, Mobile Home Park, and Recreational Vehicle Park - Nonconforming means a lawfully occupying mobile home or mobile home park, or recreational vehicle park existing within the City limits of Hobbs at the time the provisions of this chapter became effective and which does not conform to the regulations of the planning district map in which it is located.

Planning District 1. Mobile Home Park Planning District (MHP). The Mobile Home Park district is established to provide for locations, usually under a single ownership, in which multiple detached "mobile home" units may be placed with appropriate development standards to ensure adequate spacing, access and open space. The district is especially intended for existing older-model units that are not classified under the U.S. Department of Housing and Urban Development (HUD) standards as "manufactured homes" and/or may not comply with current minimum size standards or construction codes. "Manufactured home" units may also be placed within an MHP district but, under state law, must also be accommodated within other residential areas where "mobile home" units may be restricted. No new Mobile Home Parks may be established unless all requirements of this chapter and the Municipal Code and applicable state law are met. The minimum area required for a MHP district is two (2.0) acres.

Planning District 2. Mobile Home Subdivision Planning District (MHS). The Residential - Mobile Home district is established to allow for areas in which a "mobile home," as defined in this chapter, may be placed on an individual lot outside of a defined Mobile Home Park (as provided for in the MHP district), provided it meets all other applicable requirements of this chapter and the Municipal Code. Depending on the area, this could result in a series of lots containing only mobile homes or situations in which mobile homes might be interspersed with site-built housing and/or "manufactured homes," as defined in this chapter. This district is provided in recognition of the ongoing need for this form of lower-cost housing in Hobbs, and also given the extent of relatively small, narrow lots in some areas of Hobbs, which has led to vacant and underutilized land in some cases. The minimum area required for a MHS district is one (1.0) acres.

Planning District 3. Recreational Vehicle Park Planning District (RVP). The Recreational Vehicle Park district is intended for temporary, short-term occupancy of travel trailers, motor homes, pick-up campers, converted buses, tent-trailers or similar devices used for temporary portable housing. Recreational vehicle park districts shall have a minimum area of one (1.0) acre.

Recreational Vehicle or Travel Trailer - Recreational vehicle means a vehicle which is: (1) built on a single chassis; (2) four hundred (400) square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently tow-able by a light duty truck; (4) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

Recreational Vehicle Park - Recreational vehicle park or travel trailer park means a plot or parcel of land designed and developed specifically for the short-term, temporary occupancy of travel trailers, motor homes, pick-up campers, converted buses, tent-trailers or similar devices used for temporary portable housing.

Residential Housing Standards - These standards relate to exterior appearance and are intended 1) to improve the overall image and visual quality of the city in order to promote better neighborhoods and economic development; 2) to improve the quality of development, increasing its value and promoting its marketability; and 3) to improve the curb appeal of private residential development through the use of higher quality exterior materials and building design features. The primary emphasis is to improve the appearance of manufactured housing on individual lots within the City. However, due to the complexities of state regulations, all detached housing units, including site build and modular housing units must be addressed by these standards. (Ord. No. 980, § 1D(3), 3-17-2008; Ord. No. 1005, § 3, 12-15-2008)

18.04.030 Permitted locations for mobile homes, manufactured housing, recreational vehicles and travel trailers within the City of Hobbs.

A. *Permitted Locations.*

1. Single wide mobile homes are permitted to be located in mobile home parks and on individual lots in mobile home subdivisions.
2. Travel trailers and recreational vehicles are permitted to be located in mobile home parks and recreational vehicle parks.
3. Manufactured housing as defined herein is permitted to be located in mobile home parks, and on individual lots in mobile home subdivisions and on individual lots or parcels in any other residential subdivision within the City of Hobbs where manufactured housing is not restricted by private deed restrictions or through recorded restrictive or protective covenants, which may restrict the location of manufactured housing. The term "manufactured homes" specifically refers to a home built entirely in a protected environment under a federal code set by the U.S. Department of Housing and Urban Development (HUD). The term "mobile homes" describes factory-built homes produced prior to the June 1976 HUD Code enactment.
4. Manufactured housing as defined herein is permitted to be located on individual lots or parcels in any other residential subdivision within the City of Hobbs where manufactured housing is not restricted by private deed restrictions or through recorded restrictive or protective covenants, which may restrict the location of manufactured housing, subject to the Residential Housing Standards as noted in Section 5.24.060 H. of this chapter.

B. *Nonconforming Mobile Homes.*

1. Following the effective date of adoption of this chapter, new locations of single wide mobile homes are not permitted to be located on individual lots or parcels, except as permitted by this chapter in mobile home parks, mobile home subdivision.

2. *Existing Mobile Homes.* A Mobile Home which does not meet the requirements of this chapter but lawfully existed within the City of Hobbs upon adoption of this chapter shall be allowed to continue and be maintained on the same land site provided it continues to meet all other applicable requirements of the Municipal Code. If requested, the City will prepare a letter verifying the nonconforming status of a mobile home.

C. *Replacement of Nonconforming Existing Mobile Homes.* Replacement of a mobile home or single wide manufactured home existing prior to the adoption of this chapter, but which is not located in a mobile home park (MHP) or mobile home subdivision planning district on the same land site, is permitted only by approval of a home replacement permit, and shall meet all rules, requirements and procedures in Section 18.04.070 F. of this chapter. A home replacement permit must be approved by the City, pursuant to Section 18.04.070 F. herein.

D. *Relocation of Nonconforming Mobile Homes.* A mobile home lawfully existing prior to the effective date of the provisions of this chapter may only be moved from its current location to a land site within either a mobile home park (MHP) or a mobile home subdivision (MHS). Any such unit proposed for relocation must be determined to be a "habitable" structure pursuant to the NMAC Section 14.12.2.22 and must be a safe and suitable dwelling unit for human habitation, and the unit must satisfy all other applicable requirements of this chapter and the Municipal Code.

E. An unlawful mobile home shall be relocated within one hundred eighty (180) days of the adoption of this chapter. An unlawful mobile home exists if any of the following apply: the unit is unsafe; has no City or State permit; violates City setbacks contained in the Major Thoroughfare Plan; **shares the same lot with another principal structure;** does not have appropriate skirting or insulation; or for any other violation of the Municipal Code.

F. *Nonconforming Recreational Vehicles and Travel Trailers.*

1. A recreational vehicle or travel trailer existing prior to the effective date of the provisions of this chapter may only be moved from its current location to a land site within either a recreational vehicle park (RVP) or a mobile home park (MHP) planning district. All nonconforming recreational vehicles and travel trailers are not permitted to be located on individual lots or parcels, following the adoption of this chapter.
2. *Continuation of Nonconforming Recreational Vehicles and Travel Trailers.* A recreational vehicle or travel trailer lawfully existing and occupied within the city prior to the effective date of the provisions of this chapter, but which is not located in either a recreational vehicle park (RVP) or mobile home park (MHP) planning district, shall be allowed to continue and be maintained on the same land site for a period not to exceed ninety (90) days following the effective date of adoption of this chapter, provided it continues to meet all other applicable requirements of the Municipal Code. All recreational vehicles and travel trailers shall be removed from individual lots or parcels by the owner within ninety (90) days following the date of adoption of this chapter.
3. **Except that as approved by the City Planner or designee, arrangements for one (1) temporary RV or travel trailer may be approved in construction yards, or as a temporary industrial project, or**

other temporary arrangement; or for one (1) permanent RV or travel trailer location to be located in an outdoor industrial yard to be used as quarters for a night watchman.

G. *Modular Housing or Modular Structures.* As defined herein, modular housing and modular structures are not affected by this chapter.

H. Location of an occupied mobile home, manufactured housing unit, recreational vehicle or travel trailer on a lot with another housing unit or any occupied building or structure is not permitted. Unoccupied recreational vehicles may be parked on a lot containing another principal structure as long as the unit is not parked in the required front, rear and sides setbacks, and as permitted by deed restrictions or restrictive covenants. **Parking of recreational vehicles in the right-of-way of a public street or alley is not permitted.**

I. All mobile home and recreational vehicle locations shall be consistent with City Floodplain Management Ordinance provisions.
(Ord. No. 980, § 1D(4), 3-17-2008)

18.04.040 Permitted locations for mobile home park planning districts, recreational vehicle planning districts and mobile home subdivision planning districts.

A. *Planning District Map for Mobile Home Parks (MHP), Recreational Vehicle Parks (RVP) and Mobile Home Subdivision Planning District (MHS).*

Planning District Map. The locations and boundaries of the various planning districts established by this chapter are shown on the Planning District Map which accompanies this chapter. This map and all notations, references and other information on it, and all amendments to it, shall be as much a part of this chapter as if fully set forth and described herein. Only the Hobbs Planning Board and/or the City Commission may amend the Hobbs Planning District Map according to the procedures herein this chapter.

B. *Review Criteria and Interpretation of District Boundaries.* The Planning Division is responsible for custody of the official Hobbs Planning District Map and will promptly make any changes approved by the Planning Board. Boundaries shall follow platted lot lines, street and alley right-of-way boundaries, etc. The same shall apply for section lines, survey or other property lines, and municipal boundaries. Actions of the Planning Board establishing or amending a planning district boundary will take precedence over any conflicting information shown on the map. The Planning Division shall interpret the planning district boundaries if there is any uncertainty regarding official planning district boundaries.

C. *Planning Districts.* Planning Districts included on the Planning District Map include the following:

Mobile Home Park Planning District (MHP);

Mobile Home Residential Subdivision Planning District (MHS);

Recreational Vehicle Park Planning District (RVP).

(Ord. No. 980, § 1D(5), 3-17-2008)

18.04.050 Special use permit approval procedures for planning district map amendment.

A. *Special Use Permit Approval Process for Approval of Map Amendment of the Official Planning District Map (New Planning Districts) for Mobile Home Parks, Recreational Vehicle Parks and/or Mobile Home Subdivision - Application Procedure.* An application for an amendment to the official Planning District map may be initiated by a property owner filing a complete application with the Planning Division in a form established by the City. The application shall include the following information:

Name, address and telephone number of applicant and owner;

Legal description of the property that is the subject of the proposed amendment; A statement of the reasons why the amendment is being requested; and

Other information or documentation necessary to process the application, as required by the Planning Division. The property owner must sign the application for the planning district boundary change. Compliance with such information is necessary to place the application on the Planning Board agenda. The City Planning Division or Planning Board may require an applicant for map amendments to submit such technical studies as may be necessary to enable the proper evaluation of the application. Required studies may include, but are not limited to, traffic studies, engineering studies, noise studies or neighborhood and/or economic impact reports.

B. *Planning Board Review, Public Hearing and Decision Making Process.* The Planning Board shall, after due notice herein, conduct a public hearing on the proposed map amendment. At the public hearing the Planning Board shall consider the application, the relevant supporting materials, and all comments and written materials submitted by the public at the public hearing.

The Planning Board may give consideration to the following criteria, to the extent pertinent to the application. In addition, other factors may be considered which may be relevant to the application.

Conformance of the proposed map amendment with the City's land use policies contained in the adopted Comprehensive Plan.

The character of the neighborhood.

The adjacent residential areas, nearby properties, and the extent to which the proposed new residential development of a MHP or RVP would be compatible.

The extent to which the proposed use would affect the capacity or safety of that portion of the street network, other public facilities or utilities, or existing parking problems in the vicinity of the property.

The extent to which approval of the application would diminish the character of the neighborhood.

The possibility that an error was made when the existing planning district map was created.

C. If approved, the Planning Board must find that the map amendment must foster implementation of the City's adopted Comprehensive Plan; or the area of the proposed change is different from surrounding land

because it could function as a transition between adjacent neighborhood areas.

D. After the public hearing, the Planning Board shall adopt and transmit a final decision report to the applicant. The concurring vote of a simple majority of all current members of the Planning Board (four (4) of six (6) members) is necessary to approve any map amendment. The decision report for applications denied by the Planning Board shall state the reasons why the Planning Board denied the application. The decision of the Planning Board is final unless the applicant or any aggrieved party files a written appeal to the City Clerk within fifteen (15) days of the date of the meeting of the Planning Board when the action occurred. A re-application for a map change request on the same property may not be considered within two (2) years of the date of final action on the prior application.

E. *Conditional Stipulations Permitted.* In the exercise of its powers to review and approve map amendments, variance and other provisions of this chapter, the Planning Board is authorized to make a conditional approval of a map amendment or a variance, and to place any reasonable conditions on an application in the standard course of approving the map amendment or variance.

F. *Public Notice of Proposed Actions.* Public notice of hearings held before the Planning Board, unless otherwise required by law, shall be given as provided in this section.

1. *Published General Notice.* On or before the fifteenth day before the date of any public hearing involving the establishment or amendment of any district boundary, consideration of a special use permit, or a proposed variance from any planning regulation, the Planning Division shall publish in the local newspaper of general circulation in the City of Hobbs a public notice stating the date, time and place of the public hearing at which all parties in interest and citizens shall have an opportunity to be heard. The notice shall include a short description of the proposed action, the subject property and how additional information can be obtained.
2. *Mailed Notices.* Whenever a planning district map amendment special use permit is proposed for an area, the Planning Division shall mail notice of the public hearing by certified mail, return receipt requested, to the owners, as shown by the records of the county treasurer, of lots of land within the area proposed to be changed by a map amendment special use permit and to all other owners within the greater of two hundred (200) feet of the subject area, or one hundred (100) feet, excluding public right-of-way, of the subject area. The mailing shall be posted on or before the fifteenth day before the date of the public hearing.
3. *Notice of Proposed Variances.* Whenever a variance from the regulations herein are proposed on a property, the Planning Division shall follow the same legal notice and mail notice procedures as noted above for a map amendment public hearing.
4. *Posting of Notice Signs.* Public notice of required public hearings on property owner applications for a planning district map amendment special use permit application shall also be provided by way of a sign posted at least ten (10) days before the date of the public hearing on the property that is the subject of the application. One (1) sign shall be posted by the Planning Division for each five hundred (500) feet of frontage along a public street, with a maximum of three (3) signs required per frontage. Signs shall be located so that each sign is clearly visible from the street, or visible from the nearest public street.

5. The City may charge a reasonable fee to cover the cost of the required mailing.
(Ord. No. 980, § 1D(6), 3-17-2008; Ord. No. 1005, § 1, 12-15-2008)

18.04.060 Design standards.

A. *Mobile Home Parks (MHP) Design Standards.*

1. *Mobile home space.*

Minimum Area: Square footage: Three thousand one hundred fifty (3,150) square feet.

Width: Thirty-five (35) feet.

Corner space width: Forty-five (45) feet.

Depth: Ninety (90) feet.

Setbacks and spacing (minimum including awnings, canopies, decks and any other structures attached to, adjacent to or touching a mobile home).

Dwelling unit front setback: Twenty-one feet.

Dwelling unit side setback: Five (5) feet.

Dwelling unit rear setback: Ten (10) feet.

Corner lot side setback: Fifteen (15) feet.

MHP boundary to any internal dwelling unit: Ten (10) feet, except adjacent to public right-of-way.

MHP boundary to any internal dwelling unit: Twenty-five (25) feet adjacent to public right-of-way.

Dwelling unit to any building including accessory building: Ten (10) feet.

Thirty-five (35) feet setback is required from any property line of an abutting residential use existing prior to the MHP. However, this setback may be reduced five (5) feet for each additional one (1) foot of height to the exterior wall height, but the setback shall not be less than ten (10) feet to the existing residential area boundary.

Ten (10) feet setback is required to any other unit.

Minimum size is two (2.0) acres and used for the continuous accommodation of twelve (12) or more occupied mobile homes.

Only one (1) dwelling unit per mobile home park space.

All mobile home park site plans shall have a landscape plan meeting City Landscaping Standards.

2. *Standards for screening, buffering, walls, etc.*

a. All MHP shall have opaque perimeter walls and/or fences at least six (6) feet in height (measured at ground level on the exterior of the MHP) completely installed prior to the issuance of a certificate of occupancy for the MHP or each phase of the park development. Walls, fences, and hedges shall conform to the City Building Code and Landscaping Ordinance. A clear-sight triangle of twenty (20) feet in both directions on the mobile home space from the corner of the internal streets is required. A clear-sight triangle of at least twenty-five (25) feet is required at all MHP entrances and exits.

b. All fences shall be located on or inside the property line or property boundary. The wall or fence shall be constructed on all boundaries of the MHP and/or RVP except for street frontages. On street frontages, the fence shall be setback a minimum of ten (10) feet. Wood fences shall require regular maintenance and a wood fence shall be replaced as necessary to maintain the buffer.

3. Utility placement shall be according to the Utility Services Policy.

4. Federal, state and local accessibility requirements shall be met.

5. Streets and access standards.

a. All MHP shall have direct motor vehicle access from a public street, preferably a collector or higher designated street.

b. Each mobile home space shall have direct access to an internal street. Direct access from an interior mobile home lot to exterior public streets shall be prohibited.

c. All streets, excluding sidewalks, within a MHP shall meet standards of the City Engineer and be surfaced with two-inch HMAC over an acceptable base course for private and public streets pursuant to the Major Thoroughfare Plan with the following minimum widths required as shown on the following table:

MHP and RVP Streets	Parallel Parking	Paving Width (Feet)
Internal Street, one way	No	21
Internal Street, one way	One side	27
Internal Street, one way	Both sides	35
Internal Street, two way	No	27
Internal Street, two way	One side	30
Internal Street, two way	Both sides	35

d. No street within a mobile home park shall have a dead end, except for cul-de-sac streets,

which shall have a minimum turning radius of forty-eight (48) feet, or an alternate turn-around area as approved by the City Engineer.

- e. There shall be a network of sidewalks connecting common and/or public areas and on-site MHP service facilities with internal streets.
 - f. Walkways (concrete, asphalt or unpaved surface) are encouraged where pedestrian traffic may be significant in the MHP or RVP.
 - g. The MHP, including mobile home sites and streets shall be designed to insure proper drainage. A drainage plan including elevations and drainage calculations shall be approved by the City Engineer. Curbing and gutters are optional unless required by the City Engineer as deemed necessary for drainage.
 - h. Street lighting shall be provided to illuminate all private and public access ways and walkways for the safe movement of vehicles and pedestrians at night. All outdoor lighting shall comply with the Municipal Code and the New Mexico Night Sky Statute.
 - i. Two (2) parking spaces per dwelling unit shall be located on each mobile home space, in compliance with the Major Thoroughfare Plan. Except that the City will consider alternative proposals for cluster lots with common parking areas and lots, separate assigned covered parking spaces or assigned enclosed group garage buildings as long as the parking requirements from the Major Thoroughfare Plan are addressed.
 - j. No internal street intersections shall be less than one hundred twenty-five (125) feet from MHP entrances/exits or other internal street intersections. Each intersection, internal and external, shall be designed as close to ninety (90) degrees as possible.
6. *Signs.* Signs shall conform to the City's sign code.
7. *Refuse.* Each MHP shall provide adequate refuse collection facilities, constructed and maintained in accordance with all health regulations, to be properly screened, and designed to bar animals from access to refuse. Refuse shall be removed from collection sites at least twice a week.
8. *Storage.* The site plan may include the design for storage units and/or an area for vehicle parking/storage, or RV storage, as provided by the MHP owner or tenant. Each storage unit shall be anchored permanently to the ground, either on each mobile home site, or grouped into a mini-storage building arrangement. All storage units shall be setback a minimum ten (10) feet from any dwelling unit.
9. *Expansion or alteration.* Any existing MHP desiring to expand its area or alter its approved site plan shall do so in accordance with the provisions of this chapter.
10. Permitted uses in a MHP include Residential mobile homes with complete hookup to utilities. Manufactured homes or site built homes are permitted. Accessory buildings, swimming pools and recreation areas and buildings; Convenience establishments of a commercial nature,

including laundries, stores, beauty shops and barbershops, may be permitted in mobile home parks subject to the following restrictions: Each such commercial establishment must meet City parking requirements; Shall be located, designed and intended to serve frequent trade or service needs primarily for residents of the park; and shall present no visible evidence of their commercial character outside the park.

B. *Recreational Vehicle Park (RVP) Design Standards.* This section applies to recreational vehicles as defined in Ordinance 15.05 of the Municipal Code.

1. Overnight stays of a temporary nature are permitted in a motorized or non-motorized vehicle. The vehicle shall be specifically designed or modified for overnight accommodation.
2. Designated spaces within the park to accommodate individual recreational vehicles shall have minimum dimensions of thirty-five (35) feet width and sixty (60) feet. Pull-through spaces shall be at a sixty-degree angle, if possible. Spaces along the perimeter may be at a ninety-degree angle.
3. Pads for parking recreational vehicles shall be placed such that the side yard will be on the right side of the recreational vehicle, so that the vehicle's entry door opens to the yard.
4. Recreational vehicles within the park shall observe the following minimum setback requirements at all times:
 - a) Thirty-five (35) feet setback is required from any property line of an abutting residential use existing prior to the RVP. However, this setback may be reduced five (5) feet for each additional one (1) foot of height to the exterior wall height, but the setback shall not be less than ten (10) feet to the existing residential area.
 - b) Seven (7) feet from edge of parking pad to side boundary of designated recreational vehicle space;
 - c) Seven (7) feet from any interior street or sidewalk.
 - d) Ten (10) feet separation or distance is required between any RV unit to any other RV unit.
5. Utility services, sanitation, fire protection and street lighting shall be provided subject to City review and approval procedures. A drainage plan for the park shall be submitted for review and approval by the City Engineer.
6. Adequate internal sidewalks shall be provided for access to any community buildings or facilities used by park patrons, such as a pavilion, convenience store, laundry, showers, swimming pool, or restrooms.
7. Recreational vehicle parks shall comply with all requirements of the Municipal Code pertaining to recreational vehicles and fire protection standards for recreational vehicle parks.

8. All applicable rules and design standards for street and other development requirements shall be applicable for recreational vehicle parks. Except that paving requirements are to pave the entrance streets for a minimum distance of one hundred (100) linear feet and all customer service parking areas and at office locations.

C. *Lot of Record for MHP or RVP.* The Planning Division will determine if the property contained within the site plan is an appropriate lot of record. If necessary, a summary subdivision or lot replat may be required to create the appropriate lot of record to correspond to the same area of the site plan.

D. *Mobile Home Subdivisions.* Mobile Home Subdivision (MHS) design shall comply with all sections of the City Subdivision Regulation. MHS shall include a fifty (50) feet setback from any property line of an abutting residential use existing prior to the MHS. The minimum lot size in a mobile home subdivision shall be four thousand (4,000) square feet and the minimum lot dimensions shall be thirty-five (35) feet by one hundred (100) feet. Fifty (50) feet setback is required from any property line of an abutting residential use existing prior to the MHS. Corner lot side setback must be a minimum of fifteen (15) feet.

E. *Non-Conforming Mobile Home Park (MHP) and Nonconforming Recreational Vehicle Park (RVP).*

1. *Design Standards Waiver for Non-Conforming Mobile Home Park (MHP) and Nonconforming Recreational Vehicle Park (RVP).* Following the effective date of adoption of this chapter, any existing mobile home park (MHP) or recreational vehicle park (RVP) deemed to be non-conforming to the design standards herein, a waiver and abatement of the provisions of this chapter are granted to those existing facilities for a period of five (5) years following the effective date of adoption of this chapter.
2. However, all new mobile locations and recreational vehicle placements in existing nonconforming MHP or RVP must be consistent with the provisions herein, including the size of spaces and setbacks.

F. *Minimum Lot Width for All City Residential Lots and Minimum Mobile Home Park Space Width and Minimum Recreational Vehicle Park Space Width.*

1. The minimum lot width for all City residential lots containing detached housing units of all types shall be thirty-five (35) feet). The minimum space width in mobile home parks and recreational vehicle parks shall be thirty-five (35) feet).
2. The minimum lot width for all City residential lots containing attached housing units of all types shall be twenty-five (25) feet).

G. *Setback requirements For Manufactured Homes on Individual Lots.*

1. Front yard and Corner lot street-side yard setback requirements for placement of all manufactured homes shall comply with the adopted Major Thoroughfare Plan Section of the City Comprehensive Plan.

2. Non-street Side Yard Setback. The minimum width of each side yard shall be five (5) feet from property line.
3. Rear Yard Setback. The minimum depth of rear yard shall be five (5) feet from property line.
4. No manufactured home shall be located less than ten (10) feet from any other structure, including porches, patios or additions to the unit unless is an addition to the basic unit.

H. *Residential Housing Standards.*

1. *General Purpose.* Regulations in this Section have been established in accord with the Comprehensive Plan for the purpose of promoting the health, safety, morals, and the general welfare of the city. These regulations therefore are intended 1) to improve the overall image and visual quality of the city in order to promote better neighborhoods and economic development; 2) to improve the quality of development, increasing its value and promoting its marketability; and 3) to improve the curb appeal of private residential development through the use of higher quality exterior materials and building design features. The goals of the Residential Housing Standards process in general are to allow residents a newer and more modern exterior appearance with a better built, more energy efficient and safer home. The primary emphasis is to improve the appearance of manufactured housing on individual lots within the City. However, due to the complexities of state regulations, all detached housing units, including site build and modular housing units must be addressed by these standards.
2. Residential Housing Standards are applicable to all modular and site built homes built in Hobbs. All such modular and site built homes also must meet International Residential Code Standards, as enforced by the City Building Official.
3. For factory build homes, only manufactured homes meeting HUD and State of New Mexico standards will be approved. No structure of a temporary character, trailer, mobile home, camper, recreational vehicle, tent, or other temporary structure shall be used on any lot any time as a replacement home either temporarily or permanently. A mobile home as defined herein is a movable or portable housing structure larger than forty (40) feet in body length, eight (8) feet in width or eleven (11) feet in overall height, designed for and occupied by no more than one (1) family for living and sleeping purposes that is (not) constructed to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code.
4. For a factory build manufactured housing home, the bottom of the factory build home, "The Enclosure" must be professionally installed and must be constructed of material that matches the home and/or is similar and enhances the beauty. A trim piece is required at the bottom of home and top of enclosure. No vinyl enclosure will be permitted. If the home is set above ground, a perimeter curb shall be required to install the enclosure. No temporary steps shall be allowed. Each dwelling, if set above ground, shall have a professional built step with a minimum five-foot by five-foot landing and railings. Each dwelling, if set in ground, shall have a concrete step

structure with a minimum three-foot by four-foot landing. Factory build homes must have tongue, axles, and wheels removed, and are enclosed at the time of set up.

5. *Skirting Standards.* Skirting standards for factory build homes require paint of a matching or complimentary color, and materials compatible with the structure. Bales of hay, rusty, wrinkled metal, dirt, tires, etc are expressly forbidden. Peeling paint is not permitted. The use of galvanized metal, plastic or fiberglass panels, or plywood or other composite wood product not designed for skirting a mobile home, is prohibited. Skirting or underpinning materials should be of materials designed and manufactured for use as manufactured housing skirting, such as vinyl matching the color of the manufactured home.

6. The minimum lot width for a detached residential home or structure shall be thirty-five (35) feet at the building setback line. Only one (1) house shall be constructed per lot. However, other outbuildings incidental to residential use may also be constructed on the same lot. The lot of record must be a single tract or lot and not a combination of separate parcels.

7. No structure unfinished as to exterior shall be permitted to remain on any lot for a period exceeding six (6) months from the date of commencement of its construction. The roof of the main structure and any garage shall be constructed with a composition shingle roof or other material of better quality. A garage is not required, however any garage built is recommended to be built similar to the home. It should match or be of similar material and enhance the beauty of the property.

8. The exterior of the principal living structure shall be stucco, stone, masonry, masonry-veneer, brick, stone-veneer, brick-veneer, hardboard or wood siding construction. Exterior appearance shall be attractive and compatible with other homes in the same neighborhood. Alternative exterior materials will be reviewed and considered by the City through the variance process.

9. No boarded up windows are to be permitted in a replacement home. The structure must be covered with paint materials of a complimentary color inset into the window frame, and not merely tacked over the opening. The roof must be in good condition without leaks so as not to create damp, moldy, and unsafe conditions.

10. Additionally, buffers or buffering materials should be of masonry or planted construction, to reduce unsightly buffering effects.

11. *General Concerns.* If upgrading from one (1) unit to a hopefully newer model, all yard setbacks must be adhered to as specified in the Major Thoroughfare Plan. If any variance is required for setbacks or any design or appearance code, the administrative variance and variance provisions in this Section shall be followed. Also, the City will enforce the lot of record requirements from above, which may require a replat to combine smaller lots being made into a larger building site.

(Ord. No. 980, § 1D(7), 3-17-2008)

18.04.070 City permits required; inspections and permit approval procedures.

- A. *City Permit Required for All Mobile Homes.* Building Official. Each mobile home to be located

in a mobile home park or a mobile home subdivision shall require a mobile home placement permit to be issued by the City Building Official or his designee. The applicant must submit a site plan showing the location of the proposed mobile home installation including the location of the driveway, all structures connected to the mobile home such as porches, carports, etc., all other structures on the site, on-site parking spaces as required by the Major Thoroughfare Plan, location of utility service lines and any other on site facilities. All mobile homes shall meet minimum requirements of installation codes of the State of New Mexico and these standards of the City of Hobbs.

B. *City Manufactured Housing Placement Permits - Application.* Permits are required for the placement of a manufactured home and an application shall be made on a form provided by the City. The applicant shall submit the following:

1. Two (2) sets of drawings including, a plot plan showing the exact location of the unit on the property and the legal description, and a color photograph or illustration;
2. The year, model and size of unit and a copy of the State of New Mexico Permit shall be provided with the permit application. No units manufactured prior to 1976 will be allowed within the City limits unless proven to comply with HUD or IRC standards;
3. Additions, carports, garages, storage buildings, or other construction in a mobile home subdivision shall be constructed in accordance with all provisions of all State and City codes;
4. Setback requirements for all carports installed with a manufactured home shall comply with the adopted Major Thoroughfare Plan Section of the City Comprehensive Plan. No sidewalls on carports shall be allowed within twenty-one (21) feet of the front street right-of-way boundary.

C. *Placement and installation.*

1. The installation of a manufactured home shall follow all manufacturer's recommendations, the Manufactured Housing Division regulations, and City Codes.
2. The installation of gas, plumbing, mechanical and electrical shall comply with the requirements, and be permitted by the manufactured housing division, along with being inspected by the Manufactured Housing Division of the State of New Mexico.
3. Subsequent to placement of a manufactured home on any lot, an inspection shall be conducted before placement of the unit. The following inspections are required: (1) Setbacks; (2) tie-down; (3) final inspection. Manufactured home installed in flood zone shall comply with Section 15.36.170(D).
4. No manufactured home intended for residential use shall be placed on a lot already containing a single-family dwelling, multiple-family dwelling, commercial or public building or structure, or a manufactured home.
5. Manufactured homes shall be fitted with an underpinning or skirting as addressed in the Residential Housing Standards section herein. The underpinning shall form a continuous wall

that extends around the perimeter of the unit with a minimum twenty-four (24) inches by twenty-four (24) inches access panel. Existing manufactured homes shall comply with skirting and all Residential Housing Standards within one hundred eighty (180) days, all others at final inspection.

D. *Specific City permit requirements are as follows:*

1. The application for the City permit for the mobile home shall be made prior to transporting the mobile home in the MHP space. Both the owner of the mobile home and the transport or moving company must be co-applicants on the permit; however, the transport company will normally obtain the permit.
2. The permit will be issued for only a ten-day permit period, and then will expire and a new permit must be obtained. The property owner (home owner) shall submit a site plan of the mobile home space with the permit application. As part of the application, the property owner must stake the four (4) corners of the exact location where the mobile home is to be sited.
3. *City Moving Permits for Manufactured Housing.*
 - a. Mobile homes shall not be moved into new locations during the weekend period, except as noted in subsection B.3.(b) below. The weekend period is hereby defined as from 5:00 p.m. Mountain Time on Friday afternoon until Monday morning at 7:00 a.m. Mountain Time. Mobile home also shall not be located during the evening and night times from 5:00 p.m. Mountain Time until 7:00 a.m. Mountain Time in the morning.
 - b. The City will allow a Saturday delivery of a mobile home if a prior permit application and appointment is made with the Building Official prior to Thursday at 12:00 Noon during the same week that the Saturday delivery is requested. The Building Official must approve the permit application with the Saturday delivery request prior to Friday at 12:00 Noon in order for the Saturday delivery to be approved. Inspection of the placement of the mobile home will then be made by the Inspections Department.
 - c. The Permit shall be placed in a conspicuous place at the job location.
4. All site-built structures, e.g., carport, are also required to have a City building permit.

E. *State Inspections Required.* State of New Mexico Manufactured Housing Division Inspectors are required to inspect all newly placed mobile homes and manufactured housing units. All state installation inspections include mechanical/electrical/blocking/sewer connections/skirting/ventilation/water and all other components pursuant to the NMAC Rules located in 14.12.2. The State of New Mexico permit process assures the consumer that the manufactured home is a safe place to live. The City Building Official will ensure proper coordination with the State of New Mexico on permits and permitting issues.

F. *Home Replacement Permit.*

1. Home replacement permits are issued by the Inspections Division and a home replacement

permit shall be required to replace any existing residential structure with a newer residential structure.

2. Replacement of a mobile home or manufactured home existing prior to the adoption of this chapter, but which is not located in a mobile home park (MHP) or mobile home subdivision planning district on the same land site with an approved manufactured home must meet all rules and requirements and be consistent with all procedures in Section 18.04.070 F. of this chapter.
3. Replacement of any other type of residential structure or home existing within the City of Hobbs prior to the adoption of this chapter on the same land site with another site built and/or modular housing unit must meet all rules and requirements and be consistent with all procedures in Section 18.04.070 F. of this chapter.

(Ord. No. 980, § 1D(8), 3-17-2008)

18.04.080 Administrative procedures.

A. *Variances.*

1. Variances are authorized deviations from the property development standards in this chapter. A variance may be appropriate when strict enforcement would represent a unique, undue and unnecessary hardship on a particular property.
2. A complete application for a variance shall be submitted by a property owner, or an agent acting on behalf of the property owner, to the Planning Division, on a form prescribed by the City, along with a nonrefundable fee, which may be established from time to time by the City Commission. Under no circumstances shall a variance be proposed or considered that would authorize a use of property for a MHP or RVP that is not otherwise permitted in the applicable planning district.

B. *Planning Division Action on Minor Variations.* The Planning Division shall have the authority to find that a variance application involves a minor variation, which shall include any proposed variation from a property development standard in this chapter that would be a deviation of a minor nature from such adopted standard. In any such case, the Planning Division may grant an administrative approval that does not require any further review or action by the Planning Board. Any such approval must meet the conditions for considering variances herein. If the Planning Division determines that an application does not meet these conditions and does not merit approval, then the matter may be referred to the Planning Board for review and action if requested by the applicant. The record of Planning Division review and approval of minor variations shall be available for public inspection, upon reasonable request, during normal business hours.

C. *Planning Board Public Hearings on Variances.* For all variance applications not deemed minor by the Planning Division, the Planning Board, after due notice, shall hold a public hearing on an application for a variance. At the public hearing, the Planning Board shall consider the application, the report of the Planning Division, the relevant supporting materials and the public testimony given at the public hearing. After the close of the public hearing, the Planning Board shall vote to approve, approve with conditions, or disapprove the application for a variance.

D. *Conditions for Considering Variances.* To approve an application for a variance, the Planning Board shall make an affirmative finding that each of the following criteria, without exception, is met:

Special circumstances must exist that are peculiar to the land and the special circumstances are not self-imposed or the result of the actions of the applicant.

Literal interpretation and strict enforcement of the terms and provisions of this chapter would cause an unnecessary and undue hardship. Granting the variance is the minimum action that will make possible reasonable use of the land or structure and which would carry out the spirit of this chapter and would result in substantial justice. Such variance will not alter the essential character of the district in which the property or structure is located or the property for which the variance is sought. Granting the variance will not adversely affect the health, safety or welfare of the public.

E. The Planning Board may impose such conditions on a variance as are necessary to accomplish the purposes of this chapter, to prevent or minimize adverse impacts upon the public and neighborhoods and to ensure compatibility. All conditions imposed upon any variance shall be expressly set forth in writing with the granting of such variance.

F. *Home Replacement Permit Requirements and Standards.*

1. *Application Procedures.* Application for a Home Replacement Permit shall be made to the Inspections Division. In addition to the application documents required for a City Building Permit under Section 18.04.060 A. above, the applicant must submit additional information on the replacement home proposed. The structure must be defined clearly in terms of appearance, exterior materials and trim, etc. If a manufactured home is proposed to be replaced with a manufactured home, then the color and appearance of skirting materials must be specified. A color photo or drawing of the replacement home should be provided with the permit application.
2. *Review Procedures.* Review of Home Replacement Permits will be conducted by the Inspections Division and the Planning Division of the City.
3. *Home Replacement Design and Performance Standards.*
 - a. *General Purpose.* Regulations in this Section have been established in accord with the Comprehensive Plan for the purpose of promoting the health, safety, morals, and the general welfare of the city. These regulations therefore are intended 1) to improve the overall image and visual quality of the city in order to promote better neighborhoods and economic development; 2) to improve the quality of development, increasing its value and promoting its marketability; and 3) to improve the curb appeal of private residential development through the use of higher quality exterior materials and building design features. The goals of the replacement home permitting process in general is to allow residents a newer and more modern exterior appearance with a better built, more energy efficient and safer home.
 - b. All modular and site built replacement homes must meet International Residential Code Standards.

- c. For factory build replacement homes, only manufactured homes meeting HUD and State of New Mexico standards will be approved. No structure of a temporary character, trailer, mobile home, camper, recreational vehicle, tent, or other temporary structure shall be used on any lot any time as a replacement home either temporarily or permanently. A mobile home as defined herein is a movable or portable housing structure larger than forty (40) feet in body length, eight (8) feet in width or eleven (11) feet in overall height, designed for and occupied by no more than one (1) family for living and sleeping purposes that is (not) constructed to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code.
- d. For a factory build manufactured housing replacement home, the bottom of the factory build home, "The Enclosure" must be professionally installed and must be constructed of material that matches the home and/or is similar and enhances the beauty. A trim piece is required at the bottom of home and top of enclosure. No vinyl enclosure will be permitted. If the home is set above ground, a perimeter curb shall be required to install the enclosure. No temporary steps shall be allowed. Each dwelling, if set above ground, shall have a professional built step with a minimum five-foot by five-foot landing and railings. Each dwelling, if set in ground, shall have a concrete step structure with a minimum three-foot by four-foot landing. Factory build homes must have tongue, axles, and wheels removed, and are enclosed at the time of set up.
- e. *Skirting Standards.* Skirting standards for factory build replacement homes require paint of a matching or complimentary color, and materials compatible with the structure. Bales of hay, rusty, wrinkled metal, dirt, tires, etc are expressly forbidden. Peeling paint is not permitted. The use of galvanized metal, plastic or fiberglass panels, or plywood or other composite wood product not designed for skirting a mobile home, is prohibited. Skirting or underpinning materials should be of materials designed and manufactured for use as manufactured housing skirting, such as vinyl matching the color of the manufactured home.
- f. The minimum lot width for a detached replacement home shall be thirty-five (35) feet at the building setback line. Only one (1) house shall be constructed per lot. However, other outbuildings incidental to residential use may also be constructed on the same lot. The lot of record must be a single tract or lot and not a combination of separate parcels.
- g. No structure unfinished as to exterior shall be permitted to remain on any lot for a period exceeding six (6) months from the date of commencement of its construction. The roof of the main structure and any garage shall be constructed with a composition shingle roof or other material of better quality. A garage is not required, however any garage built is recommended to be built similar to the home. It should match or be of similar material and enhance the beauty of the property.
- h. The exterior of the principal living structure shall be stucco, stone, masonry, masonry-

veneer, brick, stone-veneer, brick-veneer, hardboard or wood siding construction. Exterior appearance shall be attractive and compatible with other homes in the same neighborhood. Alternative exterior materials will be reviewed and considered by the City through the variance process.

- i. No boarded up windows are to be permitted in a replacement home. The structure must be covered with paint materials of a complimentary color inset into the window frame, and not merely tacked over the opening. The roof must be in good condition without leaks so as not to create damp, moldy, and unsafe conditions.
 - j. Additionally, buffers or buffering materials should be of masonry or planted construction, to reduce unsightly buffering effects.
4. *Time Requirements.* The replacement home shall be allowed to be placed on the lot within one hundred eighty (180) days of the date of removal of the existing home.

5. *General Concerns.* Regarding concerns about upgrading from one (1) unit to a hopefully newer model, all yard setbacks must be adhered to as specified in the Major Thoroughfare Plan. Also, the City will enforce the lot of record requirements from above, which may require a replat to combine smaller lots being made into a larger building site. If any variance is required for setbacks or any design or appearance code, the administrative variance and variance provisions in this section shall be followed.

(Ord. No. 980, § 1D(9), 3-17-2008)

18.04.090 Site plan review.

A. *General Provisions and Applicability.* Prior to new construction for any new mobile home park or recreational vehicle park or modification or expansion of any existing such facility, the developer/owner shall submit to the City of Hobbs a site plan conforming to the format outlined below. Additionally, a site plan submittal or revision is required whenever there is any substantial change affecting parking requirements, fire protection or fire lane configuration, or a change in driveway location or a change in grading or drainage on the site. The site plan becomes the developer's application for a City Building Permit.

B. *Submission Requirements.*

- 1. *Drawings and Information Required.* Required site plans shall be prepared on a standard sheet size not to exceed twenty-four (24) inches by thirty-six (36) inches at a scale of one (1) inch equals one hundred (100) feet with a minimum font size of ten (10) point. Site plans shall also be submitted in electronic format. Required site plans shall be prepared by a registered engineer, in accordance with City regulations and policies.
- 2. *General Information Required.* North arrow; site acreage; scale (written and graphic); names of engineer, developer, property owner; legal survey of the site and lot boundary; adjacent property lines, residential areas and structures; names of adjacent property owners; and existing easements on and adjacent to the site.

3. *Site Information Required.*

Location, dimensions of all proposed mobile home or RV sites and all new or existing buildings, if any;

Setback and separation distances between sites;

Proposed location of screening required by this or other ordinances of the City;

Proposed location of signs, fences, and other on-site structures;

Location all streets and sidewalks serving the site plan area including right-of-ways, easements, intersections within two hundred (200) feet;

Location of all parking and loading areas, including number and dimension of spaces;

Dimension of aisles, driveways, maneuvering areas and curb return radii;

Location of all existing and proposed fire lanes and hydrants; and

Proposed lighting plan.

Location of all landscaping, buffering and screening as required by Municipal Code and this chapter.

Geo-technical and grading report on soils, subsurface and drainage that demonstrates conformity with the City's drainage goals, objectives and standards, including direction of water flow, quantity of on and off-site water generation;

Topographic contours sufficient to evaluate drainage on and off site;

Proposed spot elevations;

Existing and proposed flow lines; and points of concentrated water discharge.

A preliminary drainage plan of the area showing the size and location of each existing and proposed drainage way and/or retention or detention area.

On-site water and sewer utility facilities.

On-site utility facilities for electric power, telecommunications, natural gas and cable TV.

C. *Site Plan Review and Submittal.*

1. Site plans for all mobile home parks and recreational vehicle parks shall be submitted to the Planning Division. The Planning Division will determine if all of the real property within the

proposed site plan is contained in an existing MHP or RVP Planning District. If the site plan is contained in the appropriate planning district, then the review of the site plan will begin. If the property within the site plan is not in the appropriate planning district, an application must first be made to the Planning Board to change the Planning District Map to include the appropriate property, pursuant to the provisions of this chapter. The Planning Division will also determine if the site plan submittal is complete with all required submittal documents.

2. Site plan review will be coordinated by the Planning Division with input from Planning, Engineering, Inspections, Utilities, Public Safety and other departments concerned with the development process.
3. Based upon its review, the staff may approve, conditionally approve, request modifications or deny approval of the site plan based on evaluation of the site plan details with respect to criteria in this subsection.
4. Staff will complete a preliminary review of the site plan and issue written preliminary review comments within ten (10) calendar days following filing of a site plan which meets all submission requirements in this chapter. Following the preliminary review, the staff will review revised submittals and will issue a final review decision in writing within ten (10) days following filing of the revised site plan. The staff decision on a site plan is final unless appealed to the Planning Board as provided by this section.
5. *Site Plan Review Criteria.* In approving or denying a site plan under this article, the following criteria shall be considered:

The extent to which the site plan fulfills the goals, objectives and standards in the City's Comprehensive Plan, Major Thoroughfare Plan, and other City policies and ordinances.

Appropriate size of sites and spaces, required setbacks, distance limitations, and other density and dimensional requirements.

Safety from fire hazards and measures of fire control;

Protection from flooding and water damage; and noise and lighting glare effects on adjacent neighbors.

Adequacy of streets to accommodate the traffic generation of the proposed development; and adequacy of off-street parking and loading facilities for the uses specified.

Landscaping and screening provisions which meet requirements of the Municipal Code and this chapter.

Impact of the proposed development on the site and surrounding properties and neighborhoods.

Safety of the motoring and pedestrian public using the facility and areas surrounding the site.

Such other measures as might secure and protect the public health, safety, morals and general welfare.

6. *Effect of Site Plan Approval.*

- a) If development of a property with an approved site plan has not commenced within two (2) years from the date of final approval of the site plan, the site plan shall be deemed to have expired, and a review and re-approval of the approved site plan by the staff shall be required before a building permit may be issued.
- b) Extensions of the approval of the site plan may be granted for a six-month period, if there has been no related change in the City's development requirements since the last approval; there has been no significant change in the area surrounding the site since the last approval; and there is no change in the site plan as originally approved. There is no limit to the number of extensions a property owner may request.
- c) *Amendments.* All amendments to all applications and approvals shall be processed in the same manner as the original application. However, the applicant shall submit a summary of all elements that are proposed to be changed along with the revised plans and application.

7. *Minor Deviations During Actual Development.* The Planning Division may authorize minor deviations from the property development standards of this chapter that appear necessary in light of technical or engineering considerations first discovered during actual development and that are not reasonably anticipated during the initial approval process, as long as they comply with the spirit and intent of this chapter. Minor deviations shall not include increases in the intensity of use or the introduction of uses not previously approved.

D. *Site Work.*

- 1. Sections 60A through 60E of the State of New Mexico Administrative Code Title 14, Housing and Construction, Chapter 12 Manufactured Housing, apply to person(s) performing the work to install homes on a site. Sections 60B through 60D thereof apply to the general requirements for sites. (Refer to [14.12.2.60 NMAC - Rp, 14 NMAC 12.2.53, 9-14-00] for reference.)
- 2. The person or persons performing the work to install a manufactured home, new, used, pre-owned or resold, shall review the intended installation site and determine that the site is suitable for the home and that the installation will comply with all local and state requirements prior to the installation. All manufactured home sites designed for either a non-permanent foundation or for a permanent foundation will comply with the following minimum standards:
 - (a) Sites shall have acceptable soils to withstand the stresses and load bearing elements of the manufactured home to be placed upon the site.
 - (b) New units shall comply with the soils criteria delineated by the manufacturer in the manufacturer's installation manual.

3. Sites shall be prepared in such a manner as to comply with all locally adopted zoning, planning and floodplain requirements. This standard applies to new and used, pre-owned or resold homes.
 4. Permanent foundation sites shall be prepared in such a manner that positive drainage of surface water is maintained and directed away from the manufactured home and adjacent improvements. The perimeter completely around the manufactured home shall be sloped to provide positive drainage away from the home and prevent moisture accumulation under the home, unless the manufacturer's installation instructions or the local requirements for slope and drainage applies. Slope shall be one (1) percent to the property line or for twenty (20) feet.
 5. Every manufactured home prior to installation shall have a site plan review approved by the City and shall illustrate the placement of the home on the site, the location of property lines, the zoning classification of the site, the location, type and specifications of the septic system, water utility, electrical utility and service, and the gas utility source and size, if utilized. (Refer to [14.12.2.60 NMAC - Rp, 14 NMAC 12.2.53, 9-14-00] for reference.)
- E. *Local Planning and Zoning Jurisdictions or Units Installed in Floodplain or Mudslide Areas.*
1. All installations of manufactured homes must comply with these Regulations [14.12.2 NMAC] and all locally adopted zoning and planning requirements.
 2. Every dealer prior to delivery of a manufactured home sold shall have acknowledged by the consumer a document advising the consumer to check with the local governing body in the locality of the site where the home will be installed to determine installation requirements in flood zone areas. (Refer to [14.12.2.59 NMAC - Rp, 14 NMAC 12.2.52, 9-14-00] for reference.)

(Ord. No. 980, § 1D(10), 3-17-2008)

18.04.100 Appeals.

A. *Appeal of Staff Decision.* An appeal to the Planning Board of the staff's decision may be made if filed by the applicant in writing not more than fifteen (15) days after the date the applicant is officially notified of the staff decision. The applicant's appeal shall state all reasons for dissatisfaction with the action of the staff. The Planning Board may, by majority vote, approve, conditionally approve, or deny the site plan approval. The recommendation of the Planning Board is final unless the applicant requests in writing, within fifteen (15) days of the Planning Board action, a final review by the City Commission.

B. *Appeal of Planning Board Actions.* Any decision of the Planning Board concerning a request to change the planning district classification of property may be appealed by the applicant or any aggrieved party to the City Commission. Such appeals must be filed in writing to the City Clerk within fifteen (15) days following the date of the Planning Board action. The appeal hearing will be scheduled before the City Commission at a meeting after the minutes of the Planning Board are prepared and all parties have been notified of the request for an appeal.

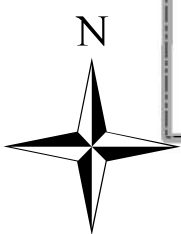
C. *City Commission Review.* The staff will schedule a hearing on the appeal before the City Commission, forward the staff recommendation and the action of the Planning Board to the Commission, and

notify the applicant of the hearing date. The City Commission may, by majority vote, approve, conditionally approve, or deny the site plan. The action of the City Commission is final. (Ord. No. 980, § 1D(11), 3-17-2008; Ord. No. 1005, § 2, 12-15-2008)

18.04.110 Enforcement and implementation.

The City of Hobbs shall have the authority to enforce the requirements and standards of this chapter pursuant to Section 3-21-10, NMSA 1978.

- A. The City of Hobbs intends to vigorously enforce this chapter. If any single wide mobile home, recreational vehicle or travel trailer is placed, located, or maintained, or is used any way in violation of this chapter, the City shall forthwith disconnect City utilities and other utilities from the offending dwelling unit and also disconnect utilities to any structure providing utilities to the offending unit. A minimum fine of two hundred fifty dollars (\$250.00) per day shall be levied for each violation of the sections of this chapter. The City of Hobbs may institute any appropriate action or proceedings to:
 - 1. Prevent such unlawful placement, location, erection, conversion, maintenance or use;
 - 2. Restrain, correct or abate the violation;
 - 3. Prevent the occupancy of such mobile home, structure or land; or
 - 4. Prevent any illegal act, conduct, business or use in or about such premises.
- B. *Revocation of Certificate of Occupancy if Violations Occur* - The City Building Official is empowered to revoke any manufactured housing placement permit (similar to certificate of occupancy) if repeated violations of this chapter occur at any dwelling unit or mobile home or recreational park.
- C. *Abandoned or Unsafe Mobile Homes - Removal by City*. The City is empowered through condemnation powers to remove and abate any abandoned or unsafe mobile homes, recreational vehicles or manufactured housing.
- D. *Annexation Waiver* - Following the effective date of any annexation of new territory into the City limits of Hobbs, a waiver and abatement of the provisions of this chapter is granted to any existing mobile home, existing mobile home park and/or existing recreational vehicle park located within the annexation area for a period of five (5) years following the effective date of annexation. This waiver applies to only to new annexations after the effective date of this chapter.
- E. Any person who violates any provision of this chapter shall be found guilty of a misdemeanor, and upon conviction in the Municipal Court of the City of Hobbs shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) or more than five hundred dollars (\$500.00) for a first or subsequent offense and by imprisonment for not more than ninety (90) days, or both, for a second or subsequent offense.

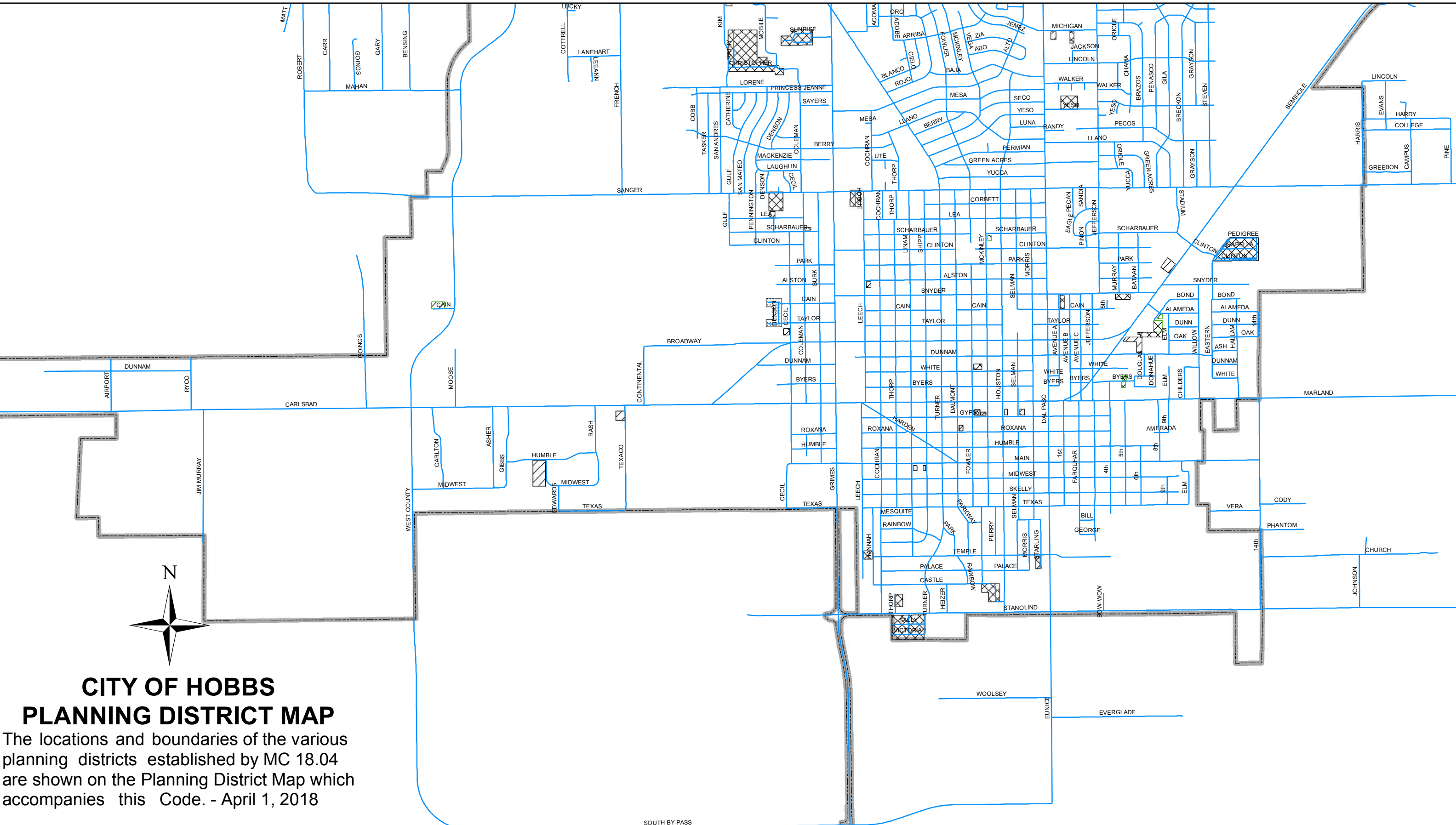


CITY OF HOBBS PLANNING DISTRICT MAP

The locations and boundaries of the various planning districts established by MC 18.04 are shown on the Planning District Map which accompanies this Code. - April 1, 2018

SOUTH MAP

- Areas**
- MHP
 - MHS
 - RVP
 - MHP Ammended 10-08
 - RVP Ammended 10-08
 - citylimits



April 17, 2018
Planning Board Regular Meeting

8) DISCUSSION ITEM

- B) Review & discuss Lot of Record requirements within MC 18.04.060-H.**