City of Lake Quivira
Zoning and Subdivision Regulations
2019



Prepared by:

City of Lake Quivira Planning Commission

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City of Lake Quivira Building Official

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CITY OF LAKE QUIVIRA

ZONING AND SUBDIVISION REGULATIONS

SECTION ONE: SHORT TITLE

These regulations shall be known and may be cited as the Zoning and Subdivision Regulations of the City of Lake Quivira, Kansas.

SECTION TWO: PURPOSE AND INTENT

This ordinance is adopted pursuant to the authority contained in Article 7 of Chapter 12 of the Kansas Statutes Annotated, and Amendments thereto, and Article 12, Section 5 of the Kansas Constitution.

These zoning regulations are intended to serve the following purposes:

A. To divide the City of Lake Quivira into Zones and Districts.;
B. To regulate and restrict the location and use of buildings and the uses of land within each district or zone;
C. To promote the safety, health, comfort, character and general welfare of the City;
D. To conserve and protect property values through the City;
E. To restrict and regulate the height, number of stories and size of buildings, the percentage of lot coverage; the size of yards, courts, and other open spaces; and the density of population; and
F. To provide for the subdivision of land and the installation of improvements.

SECTION THREE: PENATY FOR VIOLATIONS AND CIVIL REMEDIES

Penalty for Violations and Civil Remedies.

A. The violation of any provision of this ordinance is hereby declared to be a public offense and, pursuant to the authority of K.S.A. 12-761, a misdemeanor, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed $500 or by imprisonment for not more than six months for each offense or both such fine and imprisonment. Each day's violation of this ordinance shall constitute a separate offense.

B. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this ordinance and to abate nuisances maintained in violation thereof. In the event that any building or structure is or is proposed to be erected, constructed, altered, converted or maintained in violation of this ordinance, or any building, structure or land is proposed to be used in violation of this ordinance, the City Attorney, or other appropriate authority of the City, may, in addition to any other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of such building, structure or land.

SECTION FOUR: RULES AND DEFINITIONS

For the purpose of these regulations, certain words and terms used herein shall be interpreted or defined as follows:

A. Words used in the present tense include future tense.
B. The singular includes the plural.
C. The word "person" includes a corporation as well as an individual.
D. The word "lot" includes "platted lots" and "parcels."
E. The term "shall" or "must" is mandatory and not directory.
F. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "designed for" and "intended for".
G. Certain terms or words herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:
    1. **Accessory Structure:** a subordinate structure having a use customarily incidental to and located on the lot occupied by the main building, or a use customarily incidental of the main use of the property. A fully enclosed building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building or is under an extension of the main roof and designed as an integral part of the main building; otherwise, it is an accessory building. A fence shall not be considered an accessory structure.
    2. **Accessory, Use:** A use of land or of a building which is customarily incidental to and clearly subordinate to the principal use of the land or building and located on the same lot with such principal use. Accessory uses shall not include, in any case, outdoor storage, processing or repair.
    3. **Alley:** A public or private right-of-way designed to serve as primary vehicular access to the side or rear of those properties whose principal frontage is on a street.
    4. **Alteration:** Any addition, removal, extension or change in location of any exterior surface of a main building or accessory building.
    5. **Basement:** A lower story, the floor of which lies below the finished exterior grade at the front of the building, the average elevation of said exterior grade being above the middle of the interior height of such story.
    6. **Block:** A piece or parcel of land entirely surrounded by streets, streams, parks, or a combination thereof. In cases where platting is incomplete or disconnected, the Commission shall determine the outline of the block.
    7. **Board:** City of Lake Quivira Board of Zoning Appeals
    8. **Buffer:** A strip of land used to visually separate one area from another through the use of natural or planted vegetation, screening and distance.
    9. **Building**: A structure having a roof supported by columns or by walls intended for the shelter, housing or enclosure of person, animals or chattel.
    10. **Building, Detached:** A building separated by open space from any other building on the same lot.

11. **Building, Height of:** The vertical distance from the lowest visible point on the existing or new structure to the highest point on the roof, excluding chimneys. (See Appendix A)
12. **Building Line.** A line indicating the portions of the lot area covered by structures, including but not limited to: accessory structures (including cantilevers, overhangs, eaves, soffit and gutters etc.) such as porches, patios, decks, pools, and tennis courts, but not including driveways, sidewalks and parking areas. (See Appendix B)
13. **Building Official:** Shall be that person hired or appointed by the Governing Body to administer the provision of this Code.
14. **Building, Public:** A publicly-owned building used or occupied for a public purpose. They shall include privately owned buildings used for the same semi-public purposes. (Special Use Permit Required).
15. **Building, Principal:** The building housing the main use of the property on which it is situated.
16. **City:** City of Lake Quivira, Kansas
17. **Clerk:** City Clerk of the City of Lake Quivira, Kansas.
18. **Cluster Home Development**: A development design technique that concentrates buildings in a specific area on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically environmentally sensitive features.
19. **Commission:** Planning Commission of the City of Lake Quivira, Kansas.
20. **Comprehensive Plan:** the officially adopted Comprehensive Plan of the City of Lake Quivira.
21. **Construction:** The erection or remodeling of a structure.
22. **Court, Inner:** A court enclosed on all sides by exterior walls of a building or by exterior wall and lot lines on which walls are allowable.
23. **Court, Outer:** An open unoccupied space, bounded on two or three sides by exterior walls of a building, and on the other side by yards, streets or alleys.
24. **Density:** The numerical value obtained by dividing the total number of dwelling units in a development by the gross area of the tract of land (in acres) within a development. This would include all nonresidential land uses and private streets of the development, as well as right -of-way or dedicated streets not required open space; the result being the number of dwelling units per gross acre of land.
25. **Design and Construction Standards:** The "Standard Specification and Design Criteria" as prepared and updated by the Kansa City Metropolitan Chapter of the American Public Works Association (KCAPWA) shall be the Design and Construction Standards for the City, to include current IBC, IRC standards as specified by the building official and or ordinance.
26. **Cul-de-sac:** A street having one end open to traffic and being permanently terminate by a traffic turn-around.
27. **Developer:** The owner of land proposed to subdivide or its representative who is responsible for any undertaking that requires review and/or approval under these regulations.

28. **Development:** The conversion of land into public use, semi-public use, housing, commercial, or industrial building sites. Land development process involves construction and improvements that have indefinite life, such as draining, dredging, excavating, filling, grading, paving etc. (commercial industrial etc. require special use permitting).
29. **Discharge:** means the addition or introduction, directly or indirectly, of any Pollutant, Stormwater, or any other substance into the Municipal Separate Storm Sewer System or Surface Waters.
30. **Dwelling:** A building or portion thereof, designed exclusively for residential occupancy.
31. **Dwelling, Single Family:** A building or portion of a building arranged, intended or designed for residential occupancy by one family.
32. **Dwelling, Single Family Attached:** A portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of other portions.
33. **Easement:** A grant by the property owner to the public, a corporation, or persons of the use of a strip or parcel of land for specific purposes.
34. **Elevation:** The measurement above sea level of a lot and/or structure.
35. **Exception:** Permission, with the Board of Zoning Appeal's review and approval, to do what is specifically listed in these regulations as a possible exception.
36. **Family:** One (1) or more person(s) who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than three (3) not so related excluding servants living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities on a non-profit, cost sharing basis, or both.
37. **Fence:** A protective, confining or decorative barrier separate from any building and not including any living plant material.
38. **Floor Area:** The gross area within a building as measured from the exterior surfaces of the exterior walls, including the areas of all floors, basements, garages, and attics where the headroom exceeds seven (7) feet and the floor area of all fully enclosed, accessory building where headroom excess seven (7) feet.
39. **Front Lot Line:** Any lot line(s) which abut(s) a street or a lake.
40. **Front Yard Setback**: The distance between any front lot line and front yard setback line. The front yard setback line shall be a line inside the lot and parallel to the front lot line, running from the lot line to lot line (generally side lot line to side lot line). The area between the front lot line and the front yard setback line shall be the required front yard. (see Yard, Front).
41. **Garage, Private:** An accessory building or portion of a main building designed for storage of motor vehicles. (Private garage must comply with minimum setback requirements.)

42. **Grade, Finished:** "Finished grade" means the completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.
43. **Gutter, Roof**: A trough along the eaves to catch and carry off rainwater.
44. **Governing Body:** The City Council and Mayor of the City of Lake Quivira.
45. **Hardscape:** Modifications to the visible features of an area of land, including the construction of structures below 48" for us of, but not limited to, entertaining and/or outdoor living.
46. **Home Owners Association:** An association or organization, whether or not incorporated, which operates under an pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision—be it a lot, parcel site, unit plot, condominium, or any other interest—is automatically a member of as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the Association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.
47. **Home Occupation:** Any occupation of a service character conducted for or on behalf of a member of the family residing in the dwelling which is clearly secondary to the main use of the premises as a dwelling place, and does not change the character thereof or have any exterior evidence of such secondary use either in the form of signs, materials, equipment, noise, odor or other nuisance or unusual pedestrian or vehicular traffic appurtenant to such home occupations.
48. **Illicit Discharge**: means any direct or indirect non-stormwater discharge to the Municipal Separate Storm Sewer System.
49. **Improvements:** All work required to construct or install facilities including but not limited to streets, sidewalks, curb/gutters, storm drainage, street lights, trees, signs, utilities, erosion and sediment control measures, City inspection of construction and preparation of as-built record plans prepared, signed and sealed by a register professional engineer licensed to practice in the state of Kansas.
50. **Inspection:** Review of construction by the City of Lake Quivira Building Official or designee to determine that the work complies with the approved construction drawings and specifications and to building code as adopted by ordinance or policy.
51. **Landscape:** Modifications to the visible features of an area of land, without the construction of structures in excess of 18" above final grade.
52. **Lot:** A portion of a subdivision or other parcel of land which may contain both platted and unplatted land intended as a unit of ownership and occupied or intended to be occupied by one building or use and the accessory building or uses customarily incidental to it.
53. **Lot, Corner:** A lot abutting upon two or three streets at their intersection.
54. **Lot Coverage:** That portion of the lot area covered by structures, (including all overhangs, eaves, soffits, gutters, and cantilevers) **including** but not limited to: accessory structures such as porches, patios, decks, pools, and tennis courts, but not including driveways, sidewalks and parking areas.

55. **Lot Depth:** The mean horizontal distance from the front street line to the rear line of a lot.
56. **Lot Frontage:** The length of the front lot line, or the combined length of all front lot lines where there is more than one.
57. **Lot, Interior:** A lot whose sidelines do not abut upon a street.
58. **Lot Line:** A straight line or smooth curved line defining the boundary of a lot. Continuous line segments which vary in their bearing by less than 20 degrees shall be considered as one lot line. See Appendix D
59. **Lot, Area:** Area of lot exclusive of street right-of-way.
60. **Lot Split:** The division of a single lot into not more than two (2) tracts, in accordance with section 8.2 of these regulations, without having to resubdivide said lot, providing that the resulting lots shall no again be divided without replatting.
61. **Lot, Through:** An interior lot having frontages on two nonintersecting streets, as distinguished from a corner lot.
62. **Lot Width:** That distance between the side lot lines measured at the front setback line.
63. **Non-Conforming Uses:** Use of building or of land that does not conform to the regulations as to use in the district in which it is located.
64. **Non-Conforming Lot of record:** A loth which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to these regulations, and which does not comply with the lot width or lot area requirements for any permitted use in the district in which it is located.
65. **Non-Conforming Structure:** An existing structure which does not comply with the heights or yard setback requirements applicable to the new structure in the zoning district in which it is located.
66. **Off-Street Loading Space:** Space locate outside of streets for standing of trucks and for loading and unloading them.
67. **Off-Street Parking Space:** A permanently surfaced area, enclosed or unenclosed, connected by a permanently surfaced driveway to a street or alley to permit ingress and egress located away from space improved for street purposes.
68. **Open Space:** An area of land or water or any combination thereof retrained for active or passive recreation; conservation or enhancement of natural or scenic resources; preservation of forests, wildlife areas and sanctuaries; and buffer areas. Open space includes areas used for recreational facilities and the accessory uses such as access roads and parking areas but does not include public or private right of way designated for streets and alleys.
69. **Open Space, Common:** Open space within a residential development reserved for the exclusive use of the residents of that development and their guests.
70. **Pedestrian Way:** A right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.
71. **Plat:** A map, plan or layout of a city, township, section or subdivision indicating the location and boundaries of individual properties.

72. **Play (Tree) House**: a subordinate structure less than **32 sq. ft**, having a recreational use and located on the lot occupied by the main building.
73. **Platted:** Refers to land subject to a recorded final plat.
74. **Platted Lot:** A lot as shown on a plat filed in the office of the Register of Deeds of the appropriate county.
75. **Property Line:** See Lot Line.
76. **Rear Lot Line:** Any lot line which is not a front lot line nor a side lot line. (Note: some lots have no rear line.)
77. **Rear Yard Setback:** The distance between any rear lot line (if any) and the rear yard setback line. There rear yard setback line shall be a line inside the lot and parallel to the rear lot line, running from lot line to lot line (general side lot line to side lot line). The area between the rear lot line and the rear yard setback line shall be required rear yard (see Yard, Rear). Lots with nor rear lot line shall have no required rear yard.
78. **Recreation Vehicle:** A vehicle or vehicular structure without permanent foundation designed to be towed, hauled or driven from place to place with the intended purpose of providing temporary living accommodations for recreational camping or travel use. This definition shall include but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.
79. **Required Yard:** The area required by the district for new construction between the lot line and the setback line. (May also be referred to as the required setback area, required front yard, required side yard, required rear yard.)
80. **Retaining Wall:** Walls over 48" (including footings), whether terraced or not, are relatively rigid walls used for supporting more than 48" (terraced or not) of unbalance backfill. shall be accompanied by a water drainage plan, design calculations and plans sealed by a professional engineer licensed in the State of Kansas. Said plans shall be reviewed prior to the issuance of a building permit. Retaining walls below 48" shall be accompanied by water drainage plans sealed by a professional engineer licensed in the State of Kansas.

81. **Right of Way:** A strip of land occupied or intended to be occupied by a street, crosswalk, sidewalks, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term "right of way" for land platting purposes shall mean that every right of way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right of way and are not included with the dimension or areas of such lots or parcels. Rights-of way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to the public in accordance with the Subdivision Regulations by the maker of the plat on which such right-of-way is established.
82. **Setback Line:** The horizontal and vertical line beyond which no construction can occur except as provided herein. No soffit, cantilever, overhang, gutter, etc. shall cross the setback line. (See Appendix C.)

83. **Side Lot Line:** Any lot line which intersects a front lot line. A side lot line shall include any connecting lot liens which vary in their bearing by less than 20 degrees.
84. **Side Yard Setback:** The distance between the side lot line and the side yard setback line. The side yard setback line shall be a line inside the lot and parallel to the side lot line, running from setback line to setback line (generally front yard setback line to rear yard setback line). The area between the side lot line and the side yard setback line shall be the required side yard (See Yard, Side.) (See Appendix C.)
85. **Sidewalk:** A pathway constructed of wood, concrete, asphalt, stone, or similar materials. less than 48" wide intended for non-vehicular travel.
86. **Sign:** Any words, numerals, figures, devices, designs or trademarks by which information is made known, such as are used to identify a building, structure or object, or designate or mention an individual, profession, firm, business, commodity or service.
87. **Soffit:** The underside of a part or member of a building,
88. **Story:** That portion of a building included between the surface of any floor above the finished exterior grade at the front of the building, and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.
89. **Street:** Any improved right-of-way which provides the principal route of access abutting property for vehicular and pedestrian usage.
90. **Street, Arterial:** A street or highway designed or utilized primarily to carry through traffic at higher vehicular speeds or for heavier volumes.
91. **Street, Collector:** A street that carries or will carry intermediate volumes of traffic from local streets to arterial streets.
92. **Street, Local**: A street that is used or will be used primarily for access to abutting properties and which carries or will carry limited volumes of traffic.
93. **Street Improvement:** The constructed physical facilities for vehicular and pedestrian usage including grading, pavement, bike lanes, curbs, gutters, sidewalks, pedestrian ways, storm drainage facilities, permanent street survey monuments, trees, street signs and other appropriate facilities.
94. **Street Line:** The dividing line between the street and the abutting property.
95. **Structural Alterations:** Any change in the supporting members of a building such as bearing walls or partitions, columns, beams or girders, or any structural change in the roof, but not including extension or enlargements.
96. **Structure:** Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, including but not limited to advertising signs, billboards and poster panels; but exclusive of customary fences, single driveways-less than 20' wide.
97. **Subdivider:** A person, firm or corporations undertaking the subdivision or re-subdividing of a tract of land or a parcel of land.
98. **Subdivision:** The division of a tract or parcel of land into two or more lots and/or plats for the purpose of establishing units of ownership of land. A subdivision may also include the establishment of new streets and easements. The subdivision becomes official establish by means of recorded plat.

99. **Stormwater Plan:** A stormwater management and illicit discharge plan to prevent: (a) the pollution of surface or groundwater; (b) The erosion of soil both during and after construction; (c) excessive run off, (d) and flooding of other properties, as applicable. Said plans shall include stormwater runoff calculations and shall provide for onsite stormwater management in accordance with Stormwater Management Regulations of the City Code.
100. **Truck:** The word "truck" shall include tractor and trailer trucks or any motor vehicle in excess of 8,000 GVW which at the discretion of the owner thereof, can be licensed as a truck or passenger vehicle.
101. **Use, Public:** Areas or buildings accessible to or shared by all members and guests of the community.
102. **Use, semi-public:** Areas or buildings that are open to the Quivira Incorporated members, guests, but not the general public.
103. **Variance:** A variation from a specific provision of these regulations as applied to a specific piece of property or structure.
104. **Variance Waiver Police:** A Policy created by the Planning Commission and approved by the Governing Body that outlines common minor structures that may be approved by the Building Official.
105. **Wall:** A continuous, physical, exterior extension of building which is architecturally compatible with the building.
106. **Yard:** An open space, unobstructed and unoccupied, except as hereinafter provided, located between the lot line and the building line.
107. **Yard, Front:** An open space, unobstructed and unoccupied, except as hereinafter provided, located between the front lot line and the front yard setback line.
108. **Yard, rear:** An open space, unobstructed and unoccupied, except as hereinafter provided, located between the rear lot line and the rear yard setback line.
109. **Yard, Side:** An open space, unobstructed and unoccupied, except as hereinafter provided, located between the side lot line and the side yard setback line.
110. **Zoning District:** A section or sections of the City for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land, and open spaces are herein established.

SECTION FIVE: GENERAL PROVISIONS

1. Jurisdictional Area: The provision of these regulations shall apply to all structures and land within the incorporated area of the City of Lake Quivira, Kansas.

2. Establishment of Districts: The Jurisdictional area is hereby divided into zoning districts which are designated as follows:

    A. R-1: Single-Family Residential District – High Density
    B. R-2: Single-Family Residential District – Moderate Density
    C. R-3: Single-Family Residential District – Low Density
    D. R-4: Single-Family Residential District – Very Low Density
    E. P-1: park and Open Space
    F. T-1: Single Family Attached District
    G. T-2: Patio Home District
    H. AG: Agricultural District

3. Zoning District Map: The boundaries of the districts are shown on the official Zoning District Map of the City of Lake Quivira, Kansas. The Zoning District Map, with all notations, references, and other information shown thereon, is incorporated into and is part of these zoning regulations with all notations, references, and other information specifically set forth herein.

4. Rules for Interpretation of District Boundaries: Where uncertainty exists with respect to the boundaries of any district on the official Zoning District Map herein incorporated by reference, the following rules shall apply:

    A. Boundaries indicated as approximately following City Limit lines shall be construed as following city limits;
    B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
    C. Boundaries indicated as approximately following the centerlines of streets highways or alleys shall be construed to follow such centerlines;
    D. Boundaries indicated as approximately following railroad liens shall be construed to be midway between the main tracks of said railroad lines;
    E. Boundaries indicated as approximately following shorelines shall be construed to follow such shore lines and in the event of a change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams shall be construed to follow such centerlines;
    F. Boundaries indicated as parallel to or extensions of features indicated in subsections A-E above shall be so construed;
    G. Whenever a street, alley or other public way is vacated, a zoning district adjoining either side of said street, alley or other public way shall automatically be extended to its center in if owne3rship is split along the centerline; and

H. When a lot held in single ownership on the effective date of these regulations is divided by a district boundary line, the entire lot shall be construed to be within the less restrictive district unless the application of this construction would increase the area of the less restrictive portion of the lot by more than 25%

5. Exemptions: The following structures and uses shall be exempt from the provisions of these regulations:

   A. Wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas, or water, or the collection of sewage or surface water operator or maintain by a public utility but not including substations or structures located on or above the surface of the ground.
   B. Agriculture defined as: The use of a tract of land of not less than five (5) acres for the growing of crops, fruit or nursery stock, including structures for carrying out farming operations; but not including pasturing, feeding or breeding of livestock. In the event that any structure or land ceases to be used only for agriculture, then such structure or land shall be subject to these regulations.

6. Application of Regulations: The following general requirements shall apply to all Zoning Districts:

   A. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with these regulations.
   B. Planned Zoning Adopted – From the effective date of these regulations all zoning changes shall be to a planned zoning district and all utilization of land shall be in conformance with the controls and procedures as set forth in Section SEVEN, subject to the following exceptions:
   C. As set for in Section SEVEN, Property currently zoned and platted for single family use as of November 4, 2002, shall not be subject to planned zoning controls. Said property shall be subject to all other relevant regulations contained in the City ordinances, including, specifically, compliance with Zoning District regulations, platting regulations and building code regulations.
   D. Upon applications to the City under any of the sections hereinafter, the City may establish rules governing the payment of fees by the applicant for utilization in covering City expenses directly associated with reviewing the application.

E. All interpretation and application of these regulations shall, at a minimum, be required to promote the public health, safety, morals and welfare.

F. Where the conditions imposed by any provision of these regulation upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by another provision of these regulations or any provision of any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive shall govern unless otherwise excepted.

G. These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement or legal relationship; provided, however, that where the provision of these regulations is more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements or legal relationships, the provision of these regulations shall govern.

7. Golf Course Buffer Zone for All Districts:

A. All new land uses propose pursuant to these regulations adjacent to the golf course are or regulation area or facility ("Protected Area") shall include a buffer area of no less than 150 feet between the Protected Area and the new use. Said buffer area shall be measured from the boundary line of the recreational area or facility to the property line of the new proposed use.

B. A developer of any are adjacent to a golf course shall notify any and all prospective landowners in writing that there is inherent potential danger and/or property age from golf balls and that his should be considered prior to purchasing any lot or tract in such area.

8. Miscellaneous Restrictions:

A. All residences shall be connected to a public sewer and public water supply. No residence shall maintain any type of septic system.

B. No radio, television or satellite receiving antenna tower or similar device shall be constructed, except where a Special Use Permit has been granted by the governing body after a public hearing and recommendation by the Planning Commission. Satellite dishes no larger than 18 inches may be installed. If said dish is to be located on the front of the house or otherwise visible form the road, a special use permit is required before installation. In considering an application for such permit, the Board shall minimize the visual impact of such structure and protect the safety of both persons and property.

C. No building materials, building material debris or construction equipment shall be kept or stored in the open or any lot which the site of a then valid building permit is not issued by the City.
D. No recreational vehicle, trailer, camper, boat, boat trailer, truck, non-operative motor vehicle without a current state registration shall be stored or parked in the open at any one or more locations for longer than forty-eight (48) consecutive hours unless the area is specifically designated as such by Governing Body.
    1. The top of a dock and/or the water surrounding a dock is designated as acceptable for the parking and storage of boats.
    2. The specific area within the Yachting Center will be designated by the Planning Commission as an acceptable area for the parking and storage of boats and/or trailers designed and used for the transportation of boats. No other types of trailers, vehicles, campers, boats, trucks or equipment shall be parked or store in such area.
    3. The specific area within the Equestrian Center of Lake Quivira will be designated by the Planning Commission as an acceptable area for the parking and/or storage of trailers designed and used for the transportation of horse(s). No other types of trailers, vehicles, campers, boats, trucks or equipment shall be stored in such area.
    4. The specific areas of Quivira Incorporated Maintenance and Golf Maintenance will be designated by the Planning Commission as an acceptable area for the parking and storage of boats, trailers, equipment, and supplies associated with the maintenance of Quivira Incorporated and/or the City of Lake Quivira.

9. Vesting of Development Rights:

A. For the purpose of single-family residential developments, developments right in such land use shall vest upon recording of a plat of such land. If construction is not commenced with five (5) years of recording a plat, the development right in such use shall expire.
B. For all purposes other than single family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use, and construction has begun, and substantial amount of work have been completed under a validly issued permit.

10. Recreation and Open Space Set Aside:

A. In order to protect and preserve the recreation and open space character that has been established in the City, each development will be required to set aside 50% of its total acreage in recreation and open

space. This recreation and open space may be restricted for the benefit of the specific development or may be dedicated to the City as public recreation and open space. The City reserves its option of whether or not it will accept the dedication. The 50% recreation and open space set aside will be excluded from the total are of the development for calculating the number of dwelling units that may be built within the development. The number of lots or density of units will be calculated based on the area remaining after the recreation and open space set aside is determined.

SECTION SIX: DISTRICT REGULATIONS

1. R-1, Single-Family Residential District – High Density: The intent of this district is to provide for high density, single-family housing in a manner consistent with the character of Lake Quivira. Land zoned and platted pursuant to the R-1 District on November 4, 2002, shall continue to be regulated under the provision of this section SIX.1; however no additional land may be zoned to the R-1 District. Land currently zoned R-1 but not platted will not be eligible for approval of a plat and must be rezoned to another zoning district prior to utilization.

   A. Uses Permitted:
      1. Single-Family, detached dwellings
      2. Parks and Playgrounds

   B. Minimum Lot Size: 12,000 square feet
   C. Minimum Lot Width 100 feet
   D. Maximum Building Height: 35 feet above the Finished Grade, not to exceed 36.5 feet above the existing, pre-construction grade. (See Appendix A)
   E. Maximum Lot Coverage: 30%
   F. Minimum Front Yard Setback: 40 feet or no closer than the existing structure –
   G. Minimum Side Yard Setback: The total of both side yards shall be not less than 25% of the width of the lot, but not less than 7feet on each side.
   H. Minimum Rear Yard Setback: 25 feet
   I. Miscellaneous Restrictions:
      1) No additional land may be zoned to the R-1 District

2. R-2, Single-Family Residential District – Moderate Density: The intent of this district is to provide for moderate density, single-family housing in a manner consistent with the character of Lake Quivira. Land zoned and platted pursuant to the R-1 District on November 4, 2002, shall continue to be regulated under the provision of this section SIX.2; however no additional land may be zoned to the R-1 District. Land currently zoned R-1 but not platted will not be eligible for approval of a plat and must be rezoned to another zoning district prior to utilization.

A. Uses Permitted:
    1. Single-Family, detached dwellings
    2. Parks and Playgrounds
B. Minimum Lot Size: 25,000 square feet
C. Minimum Lot Width 150 feet
D. Maximum Building Height: 35 feet above the Finished Grade, not to exceed 36.5 feet above the existing, pre-construction grade.
E. Maximum Lot Coverage: 25%
F. Minimum Front Yard Setback: 40 feet
G. Minimum Side Yard Setback: The total of both side yards shall be not less than 25% of the width of the lot, but not less than 18feet on each side.
H. Minimum Rear Yard Setback:30 feet

3. R-3, Single-Family Residential District – Low Density: The intent of this district is to provide for low density, single-family housing in a manner consistent with the character of Lake Quivira.

    A. Uses Permitted:
        1. Single-Family, detached dwellings
        2. Parks and Playgrounds
    B. Minimum Lot Size: 32,670 square feet
    C. Minimum Lot Width 150 feet
    D. Maximum Building Height: 35 feet above the Finished Grade, not to exceed 36.5 feet above the existing, pre-construction grade.
    E. Maximum Lot Coverage: 20%
    F. Minimum Front Yard Setback: 40 feet
    G. Minimum Side Yard Setback: The total of both side yards shall be not less than 25% of the width of the lot, but not less than 18 feet on each side.
    H. Minimum Rear Yard Setback: 30 feet

4. R-4, Single-Family Residential District – Very Low Density: The intent of this district is to provide for very low density, single-family housing in a manner consistent with the character of Lake Quivira.

    A. Uses Permitted:
        1. Single-Family, detached dwellings
        2. Parks and Playgrounds
    B. Minimum Lot Size: 43,560 square feet
    C. Minimum Lot Width 150 feet

D. Maximum Building Height: 35 feet above the Finished Grade, not to exceed 36.5 feet above the existing, pre-construction grade.
E. Maximum Lot Coverage: 20%
F. Minimum Front Yard Setback: 50 feet or no closer than the existing structure
G. Minimum Side Yard Setback: The total of both side yards shall be not less than 25% of the width of the lot, but not less than 25 feet on each side.
H. Minimum Rear Yard Setback: 30 feet

5. P-1, Park and Open Space District: The intent of this district is to provide for parks, recreational facilities, open space areas, lakes and public uses in a manner consistent with the character of Lake Quivira.

    A. Uses Permitted:
        1. Parks, lakes and open space areas
        2. Recreational facilities such as golf courses, tennis courts, swimming pools, and playgrounds.
        3. Clubhouses, marinas and similar facilities used in conjunction with recreation activities.
        4. Fish breeding ponds.
        5. Forest and wildlife reservations, and the stabling and pasturing of horses and ponies.
        6. Public uses such as city hall, public safety, maintenance yard, etc.
    B. Maximum Building Height: 35 feet above the Finished Grade, not to exceed 36.5 feet above the existing, pre-construction grade.
    C. Minimum Lot Size: none
    D. Minimum Lot Width: none
    E. Maximum Lot Coverage 20% Percent
    F. Minimum Front Yard Setback 30 feet
    G. Minimum Side Yard Setback: 20 feet
    H. Minimum Rear yard Setback: 30 feet

6. T-1, Single-Family Attached District: The intent of this district is to provide common wall dwellings that allow for ways to maximize green space by minimizing structural coverage.

    A. Uses Permitted:
        1. Residential dwellings, consisting of a maximum of four single - family dwellings per structure
        2. Uses allowed in the T-2, R-2, R-3 and R-4 districts pursuant to the height and area requirements set forth in those districts
        3. Accessory uses thereto
        4. Parks and Playgrounds

B. Maximum Building Height:
    1. Residences – 35 feet above the Finished Grade, not to exceed 36.5 feet above the existing, pre-construction grade.
    2. Accessory structures and uses, other than non-residential structures – on story, not exceeding 20 feet and not exceeding the height of the main structure.

C. Minimum Front Yard – 20 feet.
D. Minimum side yards:
    1. The total of both side yards shall be not less than 20% of the width of the lot, except that no side yard need be more than 15 feet.
    2. No side yard shall be less than 7 feet
    3. On corner lots, the side yard on the street side shall be not less than 15 feet.

E. Minimum rear yard – 24 feet

7. T-2, Patio Home District. The intent of this district is to provide dwellings which allow ways to maximize usable green space by minimizing structural coverage and to allow design concepts commonly called "cluster home" developments.

    A. Uses Permitted:
        1. Residential single-family dwellings
        2. Uses allowed in the R-2, R-3 and R-4 districts pursuant to the regulations set forth in those districts
        3. Accessory uses thereto
        4. Parks and Playgrounds

    B. Maximum Building Height:
        1. Residences – 35 feet above the Finished Grade, not to exceed 36.5 feet above the existing, pre-construction grade.
        2. Accessory structures and uses, other than non-residential structures – on story, not exceeding 20 feet and not exceeding the height of the main structure.

    C. Minimum Front Yard – 20 feet.
    D. Minimum side yards:
        1. The total of both side yards shall be not less than 20% of the width of the lot, except that no side yard need be more than 15 feet.
        2. No side yard shall be less than 7 feet
        3. On corner lots, the side yard on the street side shall be not less than 15 feet.

E. Minimum rear yard – 24 feet
F. Minimum lot width – 80 feet
G. Maximum Density – 6 single-family dwellings per acre
H. Parking regulations – four off street parking spaces shall be provided for each family dwelling unit, at least two of which shall be garage.
I. Special Regulations; The Planning Commission and Governing Body may decree the setback requirements and otherwise adjust the height and area requirements of this district where it is demonstrated that said decrease or adjustments are necessary to implement the intent of this district
    1. In authorizing such adjustments, the Planning Commission and Governing Body shall find the following:
        a. That there are special circumstances or conditions affecting the property
        b. That the adjustment is necessary for reasonable and acceptable development of the property in question
        c. That the granting of the adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the particular property is situated.
    2. In approving adjustments, the Planning Commission and Governing Body may require such conditions as will, in its judgment, secure substantially the purpose described in the applicable Section of these regulations.

8. AG, Agricultural District: The intent of this district is to preserve agricultural lands utilized to produce crops or the raising of livestock and to serve as a holding zone until the area is ready for development. It is also intended to prevent urban sprawl, control the public costs of providing services and prevent areas from developing in a pattern that would conflict with future urban development.
    A. Uses Permitted:

    B. Maximum Building Height: 35 feet above the Finished Grade, not to exceed 36.5 feet above the existing, pre-construction grade.
    C. Minimum Lot Size: 20 Acres.
    D. Minimum Lot Width: 500 feet
    E. Maximum Lot Coverage: 5 Percent.
    F. Minimum front yard setback: 50 feet
    G. Minimum side yard setback: The total of both side yards shall be not less than 25 percent of the width of the lot, but not less than 25 feet on each side.
    H. Minimum rear yard setback: 30 feet:

9. Special Use Permits: The intent of this provision is to allow the Planning Commission and the Governing Body to permit uses not otherwise permitted under these regulations but for which a demonstrated need exists and where adequate precaution can be taken to assure the compatibility of the use with surrounding uses.

    A. Special Uses Designated
        1. Gasoline Station and associated signage.
    B. Development and Performance Standards
        1. Appropriate area, height, density, parking and signage restrictions shall be determined by the Planning Commission and Governing Body on a case-by-case basis
        2. Special Use Permits may be granted for a specified or indefinite time period
        3. The procedures for granting Special Use Permits shall be the same as are applicable to a rezoning.
        4. The proposed special use at the specified location will contribute to and promote the welfare or convenience of the public.
        5. The proposed special use will not cause substantial injury of the value of the other property in the neighborhood in which it is to be located.
        6. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations
        7. Adequate off-street parking and loading areas will be provided and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect
        8. Adequate utility, drainage and other such necessary facilities have been or will be provided
        9. Adequate access roads or entrance and exit drives will be provided and shall be so designed as to prevent traffic hazards and to minimize traffic congestion in public streets and alleys

SECTION SEVEN: PROCEDURES

1. Who May Apply; Application Fees

    A. Application for a Zoning Text Amendment may only be initiated by the Governing Body or Planning Commission.

B. An application for Rezoning, Development Plan, or Special Use Permit may be filed by the Governing Body, the Planning Commission or the landowner (or contract purchaser) or the landowner's (or contract purchaser's) agent.
C. An application for an Appeal to the Board of Zoning Appeals may be filed by any person aggrieved, or by any officer of an official administering the provision of these regulations.
D. All other applications provided for in these regulations may only be filed by the landowner or contract purchaser) or the landowner's agent (or contract purchaser's agent.)
E. Fees for all applications provided for in this section shall be established by the Governing Body by resolution and the applicant shall be responsible for reimbursing the City for all professional time required as part of an application review.
F. All applications shall be made on forms prescribed by the City and available at City Hall.

2. Public Notifications

Unless otherwise specifically provided for in this Section, all publication notices for public hearings required by this Section shall be published in one issue of the official City newspaper and at least 20 days shall elapse between the date of such publication and the date set for hearing. For purposes of this section, in computing time, both the day of the publications and the day of the public hearing shall be excluded. The publication notices shall fix the time and place for the public hearing. Where the hearing is for consideration of changes in the text of these regulation, or general revision of the boundaries of zoning districts, the notices shall contain a statement regarding the proposed changes in the regulations or in the boundaries of the zone or district. The hearing is on an application for a specific property rather than a general review, the property shall be designated by legal description and general street locations, and the notice shall contain a general statement regarding the purpose of the application.

3. Public Hearings

Zoning text Amendments, rezoning and special use permits require a public hearing before the Planning Commission. The following provisions shall apply:

A. The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application and to rebut evidence presented by others.
B. The Planning Commission may request staff reports or outside professional reports on the application. Reports may include, but are not limited to, the following information: planning staff

recommendations, how the application is or is not in compliance with the policies of these regulations, an analysis of the criteria found in Section SEVEN.5 (I)(9) of these regulations, environmental conditions, conditions of nearby existing development, public utility accessibility and service levels, public infrastructure impact and service levels, ingress and egress concerns, and other reports as the Planning Commission may deem necessary. A copy of said reports will be available to the applicant and other interested parties at least three (3) days before the date set forth for the public hearing.

C. An accurate written summary of the proceedings shall be made for all public hearings.
D. The Planning Commission may adopt rules of procedure for public hearings by resolution or bylaws.
E. For action on zoning text amendments, rezoning or special use permits, a quorum of the Planning commission of more than on half of all of its members.
F. If an item which is subject to a public hearing is continued or otherwise carried over to a subsequent date and the public hearing has been opened, then the public hearing shall not be deemed concluded until the date on which the hearing is formally closed. No additional notices shall be required once the public hearing is opened.

4. Consideration of Zoning Text Amendments

A. Public hearing required
Consideration of zoning text amendments shall require a public hearing before the Planning Commission following publication notices as provided in Section SEVEN.2

B. Action by Planning Commission
A vote either for or against a zoning text amendment by a majority of all the Planning Commissioners present shall constitute a recommendation of the Planning Commission. If a motion for or against the zoning text amendment fails to receive a majority vote, the Planning Commission may entertain a new motion. A tie vote, or failure to obtain a majority vote on any motion, shall constitute a recommendation for denial. The Planning Commission recommendations to approve or disapprove shall be submitted to the Governing Body for action, accompanied by an accurate written summary of the hearing proceedings.

C. Governing Body action upon Planning Commission recommendation.
1. Approval of Planning Commission Recommendation.

When the Planning Commission submits a recommendation to pass or deny a zoning text amendment, the Governing Body

may approve the Planning Commission's recommendation by a majority vote. If the Governing Body's action is for passage of the amendment, an ordinance shall be adopted and published.

2. Rejection of Planning Commission Recommendation.

   Upon receipt of the recommendation by the Planning Commission which the Governing Body disapproves, the Governing Body shall either override the Planning Commission's recommendations by a two-thirds majority vote of the membership of the Governing Body or return such recommendation to the Planning Commission for further consideration with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

3. A failure to obtain a vote necessary to approve or override the Planning Commission's first recommendation shall constitute a remand.
4. Requests for amendments or modifications which constitute significant changes shall necessitate a remand unless they are approved by a two-thirds majority vote of the membership of the Governing Body. The determination of whether substantial changes exist shall be made by a majority vote of the Governing Body.

D. Applications returned to Planning Commission.

   Upon receipt of an application returned by the Governing Body, the Planning Commission may resubmit its original recommendation giving the reasons therefore or submit a new or amended recommendation. If the Planning Commission fails to deliver its recommendations to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commissions as a resubmission of the original recommendation and proceed accordingly.

E. Reconsideration by the Governing Body.

   Upon receipt of the Planning Commission's reconsidered recommendation, the Governing Body may, by majority vote, take such action as it deems appropriate, including approval, disapproval or amendment of the application. The Governing Body may also return the same to the Planning Commission for further consideration. Unless the Governing Body returns the application to the Planning Commission for further consideration continues its consideration of

the matter to another date, then Governing body's action on the application shall constitute a final decision.

5. Rezoning, Preliminary Development Plan and Special Use Permit Procedure.

A. Applications – proof of ownership and/or authorization of agent.
   1. Where an application has been filed by or on behalf of a landowner, and affidavit of ownership shall be submitted to the City.
   2. Where an application has been filed by an agent of the landowner or agent of the contract purchaser of the property, an affidavit of the landowner or contract purchaser establishing the agent's authorization to act on behalf of the application shall be submitted.
   3. The Affidavits required by this section shall be on forms prescribed by the City or in such form as is acceptable to the Building Official and shall be submitted prior to any public hearing or final decision on the application.

B. Pre-application conference

A pre-application conference with members of the City Staff and other City representatives may, at the discretion of the Chairman of the Planning Commission, be required prior to the submission of any application for a rezoning, special use permit or preliminary development plan. The purpose of this conference is to: acquaint the applicant with the history of the property; the procedural requirements of these regulations; provide for an exchange of information regarding the proposed development plan and applicable elements of these regulations, the Comprehensive Plan and other development requirements; advise the applicant of any public sources of information that may aid the application; identify polices and regulations that create opportunities or pose significant restraints for the proposed development; review any proposed concept plans and consider opportunities to increase development benefits and mitigate undesirable project consequences; and permit staff input into the general design of the project.

C. Submission of technical studies
   1. The Chairman of the Planning Commission may require applicants for rezoning, special use permits or preliminary development plans to submit such technical studies as may be necessary to enable the Planning Commission or Governing Body to evaluate the application. Examples of technical studies that may be required shall include, but not limited to, traffic studies, engineering studies, stormwater management plans,

geologic or hydrogeological studies, flood studies, environmental impact assessments, noise studies, market studies or economic impact reports.

2. Notwithstanding whether the Chairman of the Planning Commission requires technical studies, the Planning Commission or the Governing Body may require the submission of technical studies prior to taking action on the application.

D. Application and submission deadlines

The Planning Commission or its designee may provide for submission deadlines for material required in support of any application provided for in this title. Compliance with such deadlines shall generally be required in order to have the application placed on an agenda to be heard by the Planning Commission or Governing Body. Non-agenda items may be brought before the Planning Commission or Governing Body for hearing, provided that the Planning Commission or Governing Body in its sole discretion may refuse to hear non-agenda items.

E. Notices to surrounding property owners

Unless otherwise specifically provided for in this section, whenever notice to surrounding property owners is required for consideration of an application, such notice shall be given as follows: The applicant shall mail all notices at least 20 days prior to the hearing, thus notifying such property owner of the opportunity to be heard. Notice shall be mailed to all owners of record of land within 200 feet of the property subject to the application. If the subject property is located adjacent to unincorporated property outside the City's limits, then the area of notification shall be extended to include all unincorporated land within 1000 feet of the subject property. For the purposes of the section, the phrase "adjacent to the unincorporated property outside the City's limits" shall mean property which lies upon or touches (1) the City boundary line or (2) a street or public way, railway or watercourse which lies upon the City boundary line. Such mail notice shall be given by certified mail, return receipt requested, and shall be in letter form stating the time and place of the hearing, a general description of the proposal, the legal description, in general, street location of the property subject to the proposed change, and a statement explaining that the public may be heard at the public hearing.

In cases of applications for which protest petitions may be submitted, the notice shall also contain a statement explaining that the property

owner is required to be notified by this section, shall have the opportunity to submit to a protest petition, in conformance with these regulations. Such protest petition shall ~~to~~ be filed with the office of the City Clerk within 14 days after the conclusion of the public hearing. Newspaper clippings of the publication notices shall not be used for the mailed notice. Mail notices shall be addressed to the owners of the property and not to mere occupants thereof. When the notice has been properly addressed and deposited in the mail, failure to receive mailed notice shall not invalidate any action taken on the application. Mailed notice may be waived provided that a verified statement specifically indicating such waiver is signed by all property owners within the notification area and filed with the secretary of the planning commission, or the board of zoning appeals, as the case may be, at least two business days prior to the hearing. At least two business days prior to the public hearing the applicant shall file with the secretary of the planning commission, or the board of zoning appeals, as the case may be, the return receipts from the certified mailings and an affidavit stating the names and addresses of the person to whom notice was sent, failure to submit the affidavit prior to the hearing may result in a continuance of the hearing.

F. Posting of signs for rezoning and special use permits.

In the case of rezoning and special use permits, the building official shall place a sign on the property that informs the general public that there will be a public hearing concerning proposed changes in use and provides a specific time and place of such hearing. Prior to posing the sign, the applicant shall submit to the Chairman of the Planning Commission for approval. Upon approval by the Chairman of the planning Commission, the applicant shall maintain the sign for at least the 15 days immediately preceding the date of the public hearing. The sign shall be firmly affixed and attached to a wood or metal backing frame and placed within five (5) feet of the street right of way line in central position on the lot, tract or parcel of land so that the sign is free of any visual obstructions surround the sign. If a lot, tract or parcel of land is larger than five (5) acres, a sign as required herein shall be placed so as to face each of the streets abutting thereto. The applicant shall file an affidavit with the Secretary of the Planning Commission at the time of the public hearing verifying that the signs has been maintained and posted as required by these regulation and applicable resolutions; failure to submit the affidavit prior to the hearing may result in a continuance of the hearing. The sign may be removed at the conclusion of the public hearing and must be removed at the end of all proceedings on the application or upon withdrawal of the application.

G. Continuances

1. Any applicant or authorized agent shall have the right to one continuance of a public hearing before the Planning Commission or Board of Zoning Appeals, provided that a written request therefore is filed with the Secretary of the Planning Commission or Board of Zoning Appeals at least two (2) business days prior to the date of the scheduled hearing. The applicant shall make every attempt to notify all persons previously notified of the continuance either by mail or telephone. In any event, the applicant shall cause written notice of the rescheduled public hearing date to be sent to surrounding property owners in the same manner and in accordance with the same time scheduled as required for notice of the original hearing.
2. The Planning Commission, Board of Zoning Appeals or the Governing Body may grant a continuance of an application at any time for good cause shown. The record shall indicate the reason such continuance was made, and any stipulations or conditions placed upon the continuance.
3. A majority vote of those members of the official body present at the meeting shall be required to grant a continuance.

H. Rezoning and special use permit application – submission requirements.

1. Legal description of the property.
2. A preliminary and final development plan in accordance with Section SEVEN.
3. All studies as may reasonably be required by the Planning Commission pursuant to Section SEVEN.5 (C).
4. An ownership list detailing the names and addresses of the property owners noticed pursuant to section SEVEN.5 (E).

I. Consider of rezoning and special use permits

1. Public Hearing Required

   Consideration of all applications for rezoning and special use permits shall require a public hearing before the Planning Commission, with publication notice and notice to surrounding property owners ae required by Sections SEVEN.2 and SEVEN .5(E), respectively. The rules of the public hearing will be governed by Section SEVEN.3

2. Procedures

The rezoning of specific property or issuance of a special use permit shall require the approval of the Governing Body, upon recommendation of the Planning Commission. The Governing Body shall not take action on an original recommendation of the Planning Commission unless the time for filing the protest petition as provided in Subsection I.7 has elapsed.

3. Acton by Planning Commission
   A vote either for or against a rezoning or special use permit by a majority of all of the Planning Commissioners present shall constitute a recommendation of the Planning Commission. If a motion for or against the rezoning or special use permit fails to receive a majority vote, the Planning Commission may entertain a new motion. A tie vote, or the failure to obtain a majority vote on any motion, shall constitute a recommendation for denial. The Planning Commission recommendation to approve or disapprove shall be submitted to the Governing Body for action, accompanied by an accurate written summary of the hearing proceedings.

4. Governing Body action upon Planning Commission recommendation
   a. Approval of Planning Commission Recommendation. When the Planning Commission submits recommendations to approve or deny a rezoning or special use permit, the Governing Body may approve the Planning Commission's recommendations by a majority vote. If the Governing Body's actions is for passage of the rezoning or special use permit, an ordinance shall be adopted and published

   b. Rejection of Planning Commission Recommendation. Upon receipt of a recommendation of the Planning Commission which the Governing Body disapproves, the Governing Body shall either override the Planning Commission's recommendation by a two thirds majority vote of the membership of the Governing Body or return such recommendation to the Planning Commission for further consideration with a statement that specifies the basis for the Governing Body's failure to approve or disapprove.

   c. A failure to obtain a vote necessary to approve or override the Planning Commission's first recommendation shall constitute a remand.

d. Requests for amendments or modifications which constitute substantial changes shall necessitate a remand unless they are approved by a two-thirds majority vote of the membership of the Governing Body.

5. Applications returned to Planning Commission.
   Upon Receipt of an application returned by the Governing Body, the Planning Commission may resubmit its original recommendation giving the reasons therefore or submit a new or amended recommendation. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

6. Reconsideration by Governing Body.
   Upon receipt of the Planning Commission's reconsidered recommendation, the Governing Body may, by majority vote, take such action as it deems appropriate, including approval, disapproval or amendment of the application. The Governing Body may also return the same to the Planning Commission for further consideration. Unless the Governing Body returns the application to the Planning Commission for further consideration or continues its consideration of the matter to another date, the Governing body's action on the application shall constitute a final decision.

7. Protest Petitions.
   a. A protest against any rezoning or special use permit application shall be filed in the office of the City Clerk not later than the end of the business day (5:00pm) on the 15th day following the date of the conclusion of the Planning Commission's Public hearing held pursuant to the publication notices. In order to be considered a "valid" protest, a protest petition must be timely filed and duly signed and verified by the owners of record of 20% or more of the property proposed to be rezoned or by the owners of record of 20% of the total area, required to be notified by Section SEVEN.5 (E) excluding streets and public ways and, if the proposed rezoning was requested by the owner of the specific property subject to the rezoning or the owner of the specific property subject to the rezoning does not oppose in writing such rezoning, such property also

shall be excluded when calculating the "total real property within the area required to be notified." Verification of the genuineness and correctness of the signatures on the protest petition, either individually or collectively, shall be made by the person who has circulated the protest petition.

b. The 14-day period for filing the protest petition shall begin with the day following the conclusion of the public hearing before the Planning Commission and shall end at 5:00 pm on the 14th calendar day thereafter. For purposes of calculating the 14-day period, weekends and holiday shall be counted. Provided however, if the filing deadline falls on a weekend, holiday or other non-business day for City offices, then the filing deadline shall be at5:00 pm on the next regular business day.

c. Signatures on a protest petition which has been filed with the City may be withdrawn by filing of a signed and notarized affidavit which states and fully explains the rights being waived by the withdrawal of the protest petition. Such affidavits of withdrawal must be filed with the City Clerk on or before the last regular businesses day preceding the Governing Body meeting on the application against which the protest applies.

8. Adoption where protest filed.
   Where a valid protest petition has been filed, an ordinance approving the rezoning or special use permit application shall not be passed except by the affirmative vote of ¾ of the membership of the Governing Body.

9. Criteria for considering applications
   In considering any application for rezoning or a special use permit, the Planning Commission and the Governing Body shall give consideration to the criteria stated below, to the extent they are pertinent to the particular application. The Planning Commission and Governing Body shall also consider the details of the preliminary development plan in relation to these factors as well as other factors which may be relevant to a particular application.
   a. The character of the neighborhood.
   b. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.

c. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.
d. The extent to which approval of the application would detrimentally affect nearby properties.
e. The length of time the property has remained vacant as zoned.
f. The relative benefit to the public health, safety and welfare by retaining applicable restrictions on the property as compared to the destruction of the value of the property or hardship to the owner in association with denying its request.
g. Conformity to the City Comprehensive Plan.
h. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use or present parking problems in the vicinity of the property.
i. The recommendation of the professional staff.
j. The extent to which utilities and services, including but not limited to, sewers, water service, police and fire protection, and parks and recreation facilities, are available and adequate to serve the proposed use.
k. The extent to which the proposed use would create excessive stormwater runoff, air pollution, water pollution, noise pollution or other environmental harm.
l. The extent to which there is a need for the use in the community.
m. The economic impact of the proposed use on the community.
n. For special use permits, additional criteria as set forth herein.
    i. The ability of the applicant to satisfy any requirements applicable to the specific use imposed pursuant to the zoning district regulations.
    ii. The extent to which the preliminary development plan is in keeping with the character and quality of Lake Quivira.
    iii. The unique single-family residential and recreational character of Lake Quivira.

6. <u>Existing Uses</u>

A. Parcels currently zoned and platted as of November 4, 2002 for single family uses and/or parcels currently utilized for commercial, public, and/or semi-public uses are exempt from the planned zoning

procedures (preliminary development plan, final development plan, and Custom Architectural Approval) set forth herein, but shall be subject to all other relevant regulations and approvals contained in the City ordinances, including specifically, compliance with the zoning district regulations, platting regulations and building code regulations.

7. Preliminary Development Plans
   A. Development Plan Approval Statement of intent and Authorization.

      1. By operation of state law and the following provisions, planning commission and governing body may exercise reasonable control over aesthetics, building mass, design and architecture, building materials, training, density, circulation, stormwater runoff, preservation of natural resources, landscaping open space, traffic and any other considerations consistent with sound planning techniques and the public welfare. As such, each of these considerations may have bearing on not only the approval of development plans but on the appropriateness of certain land use designations and zoning request which accompany development plans.
      2. Subject to the provisions of section SEVEN.7, no building permit shall be issued, and no structure erected, or land altered prior to the approval of a final development in accordance with these regulations.

   B. Submission Requirements and Contents.
      The number of copies of the preliminary development plan as required on the application form shall be submitted in support of the application. The preliminary development plan shall contain the following information:

      1. North arrow and scale.

      2. With regard to the subject property only:

         a. Existing property lines, zoning, land-use, topography with contour intervals of no more than two (2) feet, and the delineation of any land areas within the 100-year floodplain
         b. Propose location of buildings and other structures, parking areas, drives, walks, screening, drainage patterns, and public streets in the location of existing easement in utilities.
         c. Sufficient dimensions to indicate relationship between the buildings, property lines, parking areas, and other elements of the plan.

d. General extent in character of proposed landscaping and the location and identification of existing trees greater than 8” in diameter.

3. With regard to areas within 200 feet of the subject property:

    a. Any public or private streets which are of record.
    b. Any drives which exists, or which are proposed to the degree that they appear on plans on file with the City.
    c. Any buildings which exist or are proposed to the degree that their location and size are shown on plans on file with the City.
    d. The location and size of any drainage structures, such as culverts, paved or earthen ditches or stormwater sewers in inlets.
    e. Existing land-use, zoning and lots or tracks of land.

4. For non-residential buildings, preliminary sketches depicting the general style, size and exterior construction materials of the building as proposed. Where several building types are proposed on the plan; a separate sketch shall be prepared for each type. Such sketches shall include elevation drawings, but detail drawings and perspectives are not required. For residential buildings, examples of general styles and materials may be requested by the Planning Commission, but specific architectural elevations will be considered at the time of the Custom Architectural Approval; Preliminary development plan application shall not be required to provide information regarding building footprints, single home driveway locations, or landscaping up on individual home lots unless specifically directed to do so by the Planning Commission or Governing Body.

5. Name and address of the landowner.

6. Name and address of the architect, landscape architect, planner, engineer, survey or other person involved in the preparation of the plan.

7. Date of preparation of the plan.

C. Relation of preliminary development plan to zoning; same procedures to apply. Where a preliminary development plan accompanies a rezoning or special use permit application, it shall be considered and acted upon in conjunction with the rezoning or special use permit shall become part of the same application.

D. The Planning Commission shall hold one or more public hearings on the plan as provided in this section. Upon conclusion of the public hearing or hearings, the Planning Commission by a majority of members present and voting, shell recommend approval, approval subject to conditions, or denial to the Governing Body.

8. Final Development Plans

A. Upon final approval of the preliminary plan and the rezoning of the property by the Governing Body, the final development plan may be submitted for approval. Permits for construction shall not be issued until the final development plan has been reviewed and approved by the Planning Commission. It is the intent of this section that's a project as constructed shall conform closely with the preliminary plans reviewed and approved at the same time of the public hearing. Final plans for a project or a portion thereof shall not be approved if one or more of the following conditions, in the judgment of the Commission, exist:

1. Increases in the total floor area of the building is covered by the plan of more than 10%.
2. Increases of lot coverage of more than 5%.
3. Increases in the height of any building of more than 10%.
4. Changes of architectural style which will make the project less compatible with the surrounding uses.
5. Changes in ownership patterns, or stages of construction, or the size of individual uses that will lead to a different development concept.
6. Changes in ownership patterns or stages of construction that will impose substantially greater loads on streets and other public facilities Decreases of any peripheral set back of more than 5%.
7. Decreases of any peripheral setback of more than 5%
8. Decreases of areas devoted to open space of more than 5% or the substantial relocation of such areas.
9. Changes of traffic circulation patterns that will affect traffic outside the project boundaries.
10. Modification or removal of conditions or stipulations to the preliminary development plan approval which are considered significant in the opinion of the chairman of the planning commission or his designee.

Variations between the preliminary and final plans which do not, in the judgment of the Planning Commission, violate or exceed

the above 10 criteria, shall be approved by the Planning Commission and its administrative role and no public hearing shall be required. If, however, variations and departures from the approved preliminary plan exceed the above criteria or are sought by the developer or other party at the time of final plan review or building permit application, the applicant shall request an amendment to the plan which shall be handled in the manner as the approval of the original preliminary plan.

B. Contents and submission requirements.

The number of copies of the final development as required on the application form plan shall be submitted in support of the application. The final development plan shall contain the following information:

1. A small key map indicating the location of the property within the City.

2. A site plan including the following:
    a. Finished grades or contours for the entire site at 2-foot contour intervals.
    b. All existing and proposed adjacent public street right-of-way with centerline location.
    c. All existing and proposed adjacent public street and drive locations, widths, curb cuts and radii.
    d. Location, width, and limits of all existing and proposed sidewalks.
    e. Location, size and radii of all existing and proposed median breaks and turning lanes.
    f. Distance between all buildings, between buildings and property lines, and between all parking areas and property lines.
    g. Location of all required building and parking set-backs.
    h. Location, dimensions, number of stories and area in square feet of all proposed buildings, swimming pools, and tennis courts.
    i. Area of land on site plan in square feet or acres.
    j. Units, locations, size and material to be used in all proposed retaining walls.
    k. Location and dimensions of all driveways, parking lots, parking stalls, aisles, loading and service areas, and docks.
    l. Location, height, candle power or lumens, and type of outside lighting fixtures for buildings and parking lots.

m. Locations, size, type of material and message of all proposed monument or detached signs.
n. Pertinent peripheral information to include adjacent developments, alignment and location of the public and private driveways and streets, medians, and public and semi-public easements.
o. Preliminary drainage design and location and existing drainage facilities.

3. Building elevations including the following:
    a. Elevations of all sides of proposed building including notation indicating building materials to be used on exteriors and roofs.
    b. Size, location, color and material of all signs to be attached to building exteriors.
    c. Location, size and materials to be used in all screening of rooftop mechanical equipment.
    d. Building Sections.
4. Floor plans indicating dimension and areas of all floors within proposed buildings.
5. Landscaping and screen plans which include:
    a. Size, species, location, and number of all proposed landscape materials.
    b. Notation of all areas to be seeded or sodded.
    c. Location, size and materials to be used for all screening, including screening of outside trash enclosure areas.
    d. Elevations and specification of materials for all walls and fences.
6. Where Custom Architectural procedures apply, applicants for final development plans shall not be required to provide information regarding architecture, building foot-prints, single home driveway locations, or landscaping upon individual home lots unless specifically directed to do so by the Planning Commission or Governing Body.

C. All site plans are to be drawn to a standard engineer's scale.
D. One copy of the proposed sit plan and one copy of the proposed building elevations shall be reduced to a size of 11 x 17-inch paper and provided to the City along with an electronic copy of the drawings.

9. Consideration of Final Development Plans

A. Relation of final development plan to preliminary plan.

1. Final development plans which contain no modification or additions from the approved preliminary development plan

shall be submitted to the Planning Commission for review and approval.

2. A final development plan which contains modifications form the approved preliminary development plan, but no significant changes form the preliminary plan, may proceed to the Planning Commission. For purposes of this section, "significant changes" shall have the meaning set forth in section NINE. The Planning Commission shall determine when a final development plan contains significant changes. This determination may be appealed to the Governing Body whose decision will be final.
3. A final development plan which is adjudged to contain significant changes form the approved preliminary development plan shall be required to be amended which shall be handled in the same manner as the approval of the original preliminary development plan.
4. Once it is determined that a final development plan does not contain significant changes, the standard for approval of the final development plan by the Planning Commission shall be substantial compliance with the preliminary development plan, fulfillment of any relevant stipulations additional requirements set for the at the time of preliminary development plan approval, and a finding that the details of the final development plan reflect the spirit and quality of the approved preliminary development plan.
5. In the event of denial of a final development plan by the Planning Commission, the applicant may appeal such determination to the Governing Body by filing a notice of appeal with the City Clerk within 30 days following the Planning Commission's decision. Upon appeal, the Governing Body may, by a majority vote, reverse the decision of the Planning Commission if it determines that the proposed final plan substantially conforms to the approved preliminary plan and that all other submissions requirements and stipulations have been satisfied.

10. <u>Status of property after approval of preliminary development plan and final development plan.</u>

    A. Subject to requirements for Subdivision and Platting contained in these regulations and to any stipulations or conditions imposed by the Planning Commission and /or Governing Body during the zoning, preliminary development plan or final development plan stages, approval of preliminary development plans and final development plans on real property shall entitle the landowner or contract purchaser to make application for building permits necessary to construct

improvements as set forth in the development plans, such as streets, utilities, and common buildings. Permits will not be issued for improvements that need further City approval, as set for the in the Custom Architectural Approval provisions and Subdivision and Platting Regulations.

11. Custom Architectural Approval Procedure for R-2, R-3, R-4, T-1 and T-2.

A. Following approval of preliminary development plan and final development plan and prior to issuance of a building permit, in the R-2, R-3, R-4, T-1 or T-2 districts, applicants must comply with the Custom Architectural procedures as set forth below. The intent of the Custom Architectural procedure is to allow developers to plan and develop a subdivision without setting forth specific home designs, but instead to leave that function to the individual lot purchasers.
B. Purchasers or contract purchasers of individual lots must make application for a Custom Architectural Approval which shall be required individually for each lot prior to application for a building permit.
C. Custom Architectural Approval submittal requirements shall be as determined by the Building Official but shall contain at a minimum:
    1. A plot plan showing the location and footprint of structures and improvements.
    2. Elevations of all sides of the proposed building including information detailing exterior building materials, fixtures and colors.
    3. The seal of a licensed architect or engineer.
D. Custom Architectural Approval applications shall be heard before the Planning Commission within 31days after a complete application has been made to the Building Official.
E. After review, the Planning Commission may, by a majority vote, approve or disapprove tor direct that modification to the Custom Architectural application be made.
F. Upon a decision by the Planning Commission, the applicant may appeal within 10 business days the decision to the Governing Body which may approve, disapprove, or modify the Planning Commission decision by a majority vote.
G. Notwithstanding the applicant's right of appeal, any decision by the Planning Commission upon a Custom Architectural Approval application may be call before the Governing Body so long as two members of the Governing Body provide written notice of their desire to review the application. Said written notice shall be directed to the Building Official and must be received within five (5) business days after the Planning Commission decision. Upon receipt of the Governing Body's intent to review the applications, the Building

Official shall immediately notify the applicant and schedule a hearing before the Governing Body for the application to be reviewed.

H. The Governing Body may not take action upon the application until the applicant has received notices of the review.

I. The Planning Commission and, when required, the Governing Body, shall review the Custom Architectural Approval application in light of the following, non-exclusive list of approval considerations:

1. 1 Lot and foundation features
    a. Footprint of home
    b. Location of footprint on lot
    c. View of home from all sides, both near and far
    d. Views of neighbors; obstruction of natural vistas
    e. Size of home relative to neighboring structures
    f. Parking considerations-homeowner's vehicles, guests' vehicles
    g. Utilities-underground service lines required
    h. Driveway coverage of lot and curb cuts
    i. Mature tree removal
    j. Drainage and stormwater issues
    k. Erosion control

2. Architectural features
    a. Uniqueness of style
    b. External building materials
    c. Window materials
    d. Roof pitch
    e. Roof material
    f. Eave and soffit
    g. Fireplace material and construction
    h. Garage appearance – location, door size, style

3. Exterior
    a. Landscaping plans
    b. Irrigation
    c. Lighting plans
    d. Retaining walls
    e. Decks
    f. Accessories
        i. Pool, hot tub, ponds, water features – location, fencing, and screening
        ii. Flag poles
        iii. Basketball goals
        iv. Fences – material, location, necessity
        v. Tennis Courts

SECTION EIGHT: GENERAL PROCEDURAL PROVISIOINS

1. Recording of development plans for planned zoning districts and notice of architectural controls in lot purchase contracts.

    A. Following the approval of a final development plan, a statement acknowledging that a final development plan has been approved for the property shall be filed with the Register of Deeds. The statement shall be recorded in accordance with the forms and procedures established by the City and shall contain the following information:
        1. A legal description of the property.
        2. A statement that the restriction on development and the responsibility for continuing maintenance and compliance with the final development plan shall be binding upon all successors and assigns unless the plan is amended in conformance with the procedures set forth in these regulations.
        3. Where applicable, a statement that further architectural controls by the City may exist and that further architectural approvals may be necessary prior to issuances of a building permit.

    B. Following approval of a final development plan in the R-2, R-3, R-4, T-1 and T-2 districts, applicants shall be required to submit proof to the Building Official that all lot purchase contracts provide notice to lot buyers that prior to construction of structures on the lot, the owner must receive Custom Architectural Approval from the Planning Commission and when applicable, the Governing Body.

2. Conditional Approvals

    In approving any application, the approving authority may stipulate that the approval is subject to compliance with certain specified condition including, but not limited to, limitations on permitted uses, time of performance requirements, limitation on hours of operation, participation in transportation systems management programs, participation on improvement districts or other programs for financing public facilities, dedication of rights-of-way, payment of fees, etc.

3. Final Decision where Ordinance required

    In the case of approval of a zoning text amendment, rezoning, special use permit or other application where adoption of an ordinance is required, the decision approving the application shall not be deemed to be effective until the ordinances has been published in an official City newspaper

4. Appeals of final decisions

Except where these regulations provide for an appeal to another quasi-judicial or administrative body, any person, official or agency aggrieved by a final decision on an application provided for in these regulating desiring to appeal said decision shall file the appeal in the District Court of Johnson County or Wyandotte County as applicable within 30 days of the making of the decision.

5. Limitations on successive rezoning applications by landowner

    A. No application for rezoning by a landowner or agent will be accepted if any application for substantially the same property and substantially the same development or land use has been filed and advertised for public hearing within the preceding six (6) months.
    B. For purposes of Subsection A, the preceding six (6) month period shall be determined as follows:
        1. If there was final action (either approval or denial) on the prior application, the six (6) month period shall run from the date of such action.
        2. If the prior application was withdrawn after being advertised for public hearing, the six (6) month period shall run from the date the application was withdrawn.
    C. The Chairman of the Planning Commission or his designee shall determine if an application concerns "substantially the same" property, development, land use as a prior application.
    D. The Landowner may appeal any such determining to the Planning Commission.
    E. The Governing Body may waive the limitation in the section for good cause shown.

6. Deviations

    A. As part of preliminary development pan approval, the Planning Commission and the Governing Body may approve deviations from the minimum standards of these regulations, including adjustment to the setback, area requirements, height requirements, density allowances, and buffer areas.
    B. The procedure and voting requirements for granting deviations shall be the same as required for approval of a preliminary development plan and deviations may be granted in conjunction with preliminary development plan approval. Each requested deviation must be specifically identified by the applicant in writing and shown visually on the plans submitted.
    C. In order to grant a deviation, the Planning Commission and Governing Body must make the following findings:
        1. Grant of the deviation is necessary to avoid hardship on the applicant.

2. Adjacent properties will not be adversely impacted.
3. The spirit and intent of these regulations and the City's Comprehensive Plan will not be violated by the grant of the deviation.

SECTION NINE: SUBDIVISION AND PLATTING REGULATIONS

1. General Provisions:
   A. Statement of intent.

      1. It is the intent of this section to create standards for the platting and subdividing of land that will yield:

         a. An accurate and easily accessible public record of parcel and easement boundaries; and
         b. A logical and efficient pattern of lots, blocks, easements and rights-of-way. The requirements for platting are intended to result in:
            vi. A highly accurate description of parcel, easement and right-of-way boundaries;
            vii. A public record format that is easily accessible and readily understandable; and
            viii. An approval process that includes an opportunity for public review and comment.

      4. The Requirements for the subdividing of land are intended to result in:

         a. A logical pattern of lots and blocks that are appropriately sized and shaped for the range of uses for which they are zoned;
         b. An efficient pattern of streets which provide safe and convenient access to each parcel and reasonable connections between adjacent subdivision; and
         c. A well-built and consistent set of public improvements designed to serve the needs of the platted area in a safe, efficient and aesthetically pleasing manner.
      5. It is further the intent of this section that in situations where planned zoning is applicable, plats shall be consistent with approved development plans which development plans shall be the primary method of land use and planning control.

   B. Plat Approval

      Except as otherwise provided in this section, no subdivision may be created, nor any plat recorded with the Register of Deeds until both a

preliminary and final plat have been submitted and approved in accordance with the provision of these regulations. Approval of preliminary plat does not constituent acceptance of the subdivision but authorizes preparation of the final plat. No improvements shall take place within the platted area prior to approval and recording of the final plat, and the approval of construction plans by the City.

C. Platting Required

The owner or owners of any land located within the jurisdiction of these regulations subdividing said land into two or more lots and blocks or tracts or parcels, for the purpose of laying out any subdivision, suburban lots, building lots, tracts or parcels or any owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall cause a plat to be made in accordance with these regulations, unless exempted under Section NINE.1D.

D. Exemptions

These Regulations shall not apply in the following instances.

1. A change in the boundary between adjoining lands which does not create an additional or substandard lot as determined by the Building Official
2. Land used for street or railroad right-of-way, a drainage easement or other public utilities subject to local, state or federal regulations where no new street or easement of access is involved.
3. Any transfer by operation of law.

E. Variations and Exceptions

1. Whenever it is found that the land included in a subdivision plat, presented for approval, is of such size or shape or is subject to, or is to be devoted to, such usage that full conformity to the provision of this title is impossible or impractical, the City Planning Commission may authorize variations or conditional exceptions in the final plat so that substantial justice may be done and the public interest secured.
2. In authorizing such variations or conditional exceptions, the Commission shall find the following:
    a. The conditions that the request is passed on constituent special circumstances or conditions affecting the

property for which the relief is sought and are not generally applicable to other property.

b. The variance, exception or waiver is necessary for the reasonable and acceptable development of the property in question and involve a particular hardship to the owner as distinguished for mere inconvenience, if the strict letter of these regulations is carried out.
c. The granting of the variance, exception or waiver will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.
d. The granting of the variance, exception or waiver will not in any manner vary the provision of the Zoning Regulations.

3. Conditions. In approving variances or exceptions of conditions, the Planning Commission may require such conditions as will, in its judgement, secure substantially the purpose described in Section NINE.1.A of these regulations.

4. Procedure. A request for a variance or exception of conditions shall be submitted in writing by the subdivider, at the time of the Preliminary Plat is filed for the consideration of the Planning Commission, or by the owner or contractual purchaser regarding construction. The request shall state fully the condition from which the petitioner is seeking relief, the grounds for the request and all of the facts relied upon by the petitioner, to substantiate the request.

F. Permits

After the date of the adoption of these rules and regulations by the Governing Body, no building permits shall be issued for any new principal building that is located upon any parcel, tract, or lot in a subdivision unless said lot has been subdivided in the accordance with these Subdivision Regulation or is exempted by the provision of Section NINE.1.D. No such plat or replat or dedication or deed of a street or public way shall be filed, as provided by law, until such plat or replat or dedication or deed shall have endorsed upon it the fact that it has been submitted to and approved by the Planning Commission and accepted by the Governing Body.

2. <u>Lot Split Regulations and Requirements</u>

Any lot already platted as of the effective date of these regulations may be divided into not more than two (2) lots or tracts without having to replat the original lot, provided that the resulting tracts shall not again be divided without replatting. Such a lot split shall be subject to the following conditions and procedures:

A. Any lot split as provided by this Section must be approved by the City of Lake Quivira Planning Commission. If the Planning Commission denies or does not act on said lot split within 45 days of the filing of an application for the approval of said division, then at the end of said 45-day period, the applicant may appeal the denial or failure to act on said lot split to the Governing Body. The Governing Body shall act upon said appeal within 30 days of the date that notice of the appeal has been filed by the applicant with the City Clerk.
B. A certificate of survey of the proposed lot split shall be submitted to the City Planning Commission in accordance with the adopted Planning Commission Hearing and Submittal Schedule. Said survey shall indicate the following:
    1. The dimension and proposed boundaries of the lots, including a metes and bounds description of each lot.
    2. The location and character of all proposed and existing public utility lines including sewers (storm and sanitary), water, gas, telecommunications, cable TV, and power lines.
    3. Building setback lines with dimension.
    4. Indication of location of proposed or existing streets and driveways providing access to said lots.
    5. Topography (unless specifically waived by the Planning Commission) with contour intervals not more than five feet, and including the locations of water courses, ravines, and proposed training systems.
    6. Said certificate of survey shall include the certification by a registered engineer or surveyor that the details contained on the survey are correct.
C. If the development of the resulting lot requires the dedication of street right-of-way or construction of curbs or pavement, the applicant shall conform to all filing requirements for said items as if filing a "final plat" as provided in Section NINE.5.
D. The width, depth, area and all building setback lines of the resulting lots shall conform to the standards as provided by the Lake Quivira Zoning Regulations, as such regulations exist at the time of the lot split.
E. Any buildings or structures existing on the lot at the time of the splitting of said lot must retain the land areas, yards, and open spaces and setbacks required for that existing building by the Zoning Regulations in existence at the time of the lot split.
F. Any easements required for utility purposes shall be dedicated by a separate instrument.

G. Once the applicant has obtained the approval of the Lake Quivira Planning Commission for the division of said lot into two lots, or in the event of an appeal, approved by the Governing Body of the City, the applicant shall file the survey with the endorsement of approval with the Register of Deeds of the County in which the lot split is located.

H. The owner of any lot which has been divided in accordance with the terms of this Section may apply to the City for a building permit by making application to the Building Official. Said official shall review the building permit application in accordance with City policies and procedures.

3. Improvement and Design Standards

A. In order to ensure that property is developed with appropriate urban services; that the subdivision of land is not scattered or premature involving danger or injury to the public health, safety, welfare, or prosperity by reason of lack of adequate water supply, wastewater disposal, stormwater disposal, roads, right-of-way, or other public services; or that the development would not necessitate an excessive expenditure of public funds for the supply of such services (such as undue maintenance cost for inadequate roads or storm water drainage), no Preliminary Plat shall be approved unless the Planning Commission determines that public facilities meet City Standards and will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the Planning Commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on the use of public facilities by possible uses of said subdivision.

B. Compliance with City Design standards. All public or private streets, alleys, storm drainage, street signs, street lighting, and sidewalks shall be constructed or installed in accordance with plans and specifications designed in accordance with the "Standards Specification and Design Criteria" as updated, and prepared by the Kansas City Metropolitans Chapter of the American Public Works Association (KCAPWA).http://kcmetro.apwa.net/ No contracts for construction shall be awarded and no construction shall be commenced until said plans and specifications shall have been submitted to and approved by the City. Inspection of all street, alley, street sign, street lighting, sidewalk or other required installation or construction shall be performed by the City or its duly authorized representative.

C. Standards

1. Water Supply. There will be an adequate public water supply available for the proposed occupancy. An adequate public

water supply shall include potable water for consumption and other inside and outside uses and adequate water pressure for the fire flow to meet establish standards for the fire protection.

2. Sanitary Sewer. There will be adequate connections to public wastewater disposal systems with adequate capacity to handle the type and volume of flow from the proposed occupancy with evidence that the existing system has capacity available to accept the additional flows proposed.
3. Storm Sewer. The proposed storm sewer system, both on-site and off-site, will be adequate to carry projected peak flows in a 10 year rain event (1" per hour - up to 4.5" per 24 hour period) without causing damage to downstream public or private property. The subdivider shall install culverts, storm sewers, rip-rap slows, stabilized ditches, storm water detention facilities, and other improvements necessary to adequately handle storm water. All improvements shall comply with the minimum standards of these regulations.
4. Stormwater Management. Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. The Planning Commission and Governing Body may require the use of control methods such as retention or detention, and/or the construction of the off-site drainage improvements to mitigate the impacts of the proposed developments.
5. Streets. Proposed streets shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation; shall include street lighting, signing, curb and gutter, and sidewalks; shall be appropriate for the particular traffic characteristics of each proposed development; and shall be improved and constructed to the appropriate standards for the street classification.
6. Rights-of-Way. Right-of-way shall be provided as required by these regulations.
7. Other Public Services. Other public services such as schools, police and fire protection, and emergency services affected by the proposed development will be substantially adequate to serve the development at existing levels of service.

D. Lots

1. Lot Orientation. All lots shall front on a street. The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street.

2. Lot Width. The width of lots shall conform to those of the Zoning Regulations and shall be measured at the front setback line.
3. Lot Arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, of reason for topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Regulations and in providing driveway access to building on the lots from any approve street. Except where unfeasible, side lot lines shall be at right angles to straight street lines and radial to curve street lines. Wherever feasible, lots shall be arranged so that the rear lot line does not abut the side line of an adjacent lot. Lot Dimension. Lot dimensions shall comply with the minimum standards of the Zoning Regulation. Dimensions of corner lots shall be large enough to allow for erection of building, observing the minimum front-yard setback from both streets.
4. Access to Lots.
    a. In the interest of public safety and for the preservation of the traffic-carrying capacity of the street system, the Planning Commission shall have the right to restrict and regulate points of access to all property from the public street system. Such restrictions shall be indicated on the final plat.
    b. Access form Arterial and Collector Streets. Lots shall not, in general, derive access exclusively from an arterial or collector street. Where driveway access from an arterial street may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on the street. Where possible driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on an arterial and collector street.
5. Lot Drainage. Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.
6. Debris and Waste. No cut trees, timber, debris, rocks, stones, junk, rubbish or other waste materials of any kind, or earth/soil containing such shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of the certificate of occupancy, and removal of those items and material shall be required prior to the issuance of any certificate of occupancy on a subdivision. No items and materials as described in the preceding sentence nor excess earth/soil shall be left or deposited in any area of the subdivision at the time of

expiration of any subdivision improvement argument or dedication of public improvements, whichever is sooner.

7. Waterbodies and Watercourses. If a tract being subdivided contains a waterbody, watercourse or portion thereof, lot line shall be so drawn as to distribute the entire ownership of the waterbody or watercourse among the ownership of adjacent lots. The Planning Commission may approve an alternative plan whereby the ownership of and responsibility of safe maintenance of the waterbody or watercourse is so placed that it will not become a local government responsibility. No more than 25% of the minimum area of the lot required under the Zoning Regulations may be satisfied any land that is under water or subject to periodic flooding. Such land(s) shall not be computed in determine the number of lots to be utilized for average density procedures. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure, or design approved by the City.

E. Blocks

1. Connectivity: Intersecting streets shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets in the neighborhood.
2. Width: In residential subdivision, blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to arterial or collector streets, railroads, or waterways.
3. Length: In residential subdivisions, the lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but blocks shall not exceed 1,200 feet or 12 times the minimum lot with required in the zoning district, whichever is greater, except that a greater length may be permitted where topography or other conditions justify a departure from this maximum. Block length shall not be less than 300 feet.
4. Easements: In long blocks, the Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, and/or pedestrian traffic.
5. Pedestrian Access: Pedestrian ways or crosswalks, not less than 10 feet wide, may be required by the Planning Commission through the center of blocks more than 800 feet long or where deemed essential to provide pedestrian circulation.

F. Street Design Standards

1. Subdivision Design: The design of the subdivision shall provide for efficient traffic flow, proper mixing of land uses, and a logical link between surrounding existing development and the propose layout. The Planning Commission shall have the authority to deny a plat or request a redesign, if, in its opinion, the layout is not suitable for the site, or if the development of the subdivision would be premature.
2. Relationship to Adjoining Street Systems: The arrangement of streets in new subdivision shall make provision for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, or where the continuation is in accordance with the Comprehensive Plan. The width of such streets in new subdivisions shall not bel less than the minimum street widths established herein. Alleys, when required and a street arrangement must cause no hardship to owners of adjoining property when they plat their land and seek to provide for convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated as a public way.

   Where topographical conditions make such street continuance or conformity impracticable, the Planning Commission may approve an alternative layout.

3. Frontage on Improved Roads: No subdivision shall be approved unless the area to be subdivided shall have frontage on and access to an existing street.
4. Grading and Improvement Plan: Roads shall be graded and improved and conform to the City of Lake Quivira construction standards and specification and shall be approved as to design and specification by the City, in accordance with the construction plans required to be submitted prior to Final Plat approval.
5. Classification: All roads shall be classified as arterial, collector or local streets. The developer or property owner shall pay for the construction of that portion of arterial street that is equivalent to the collector street standards as to curb and gutter, pavement width, and pavement thickness. Additional width of pavement, thickness of pavement, and other construction in excess of the collector street standards shall be paid for by the City-at-Large. If, however, the lots adjacent to

an arterial street have granted complete access control to the public and do not have direct driveway access to the arterial street, the City-at-Large shall assume the entire cost of the construction of the arterial street. The developer or property owner shall pay for the construction of all collector streets, local streets and alleys. The collector streets, local streets and alleys shall be designed and constructed in accordance with City standards.

6. Arrangement:
    a. Streets shall be related appropriately to the topography. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. All streets shall be arranged so as to obtain as many building sites as possible at or above the grades of the streets. Specific standards are contained in the design standards of these regulations.
    b. Arterial and collector streets through subdivisions shall conform to the major street plan of the Comprehensive Plan.
    c. Local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
    d. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Planning Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

7. Access to Arterial Streets: Where a subdivision borders on or contains an existing or proposed arterial, the Planning Commission may require that access to such streets be limited by one of the following means:
    a. The subdivision lots will back onto the primary arterial and front onto a parallel local street; no access shall be provided from the arterial, and screening shall be provided in a strip of land along the rear property line of such lots.
    b. A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to

such a parallel street, with the rear lines of their terminal lots backing onto the primary arterial.

c. A marginal access or service road (separated from the arterial by a planting or grass strip and having access at suitable points).

8. Road Names: Streets that are in alignment with other already existing and named streets shall bear the names of the existing streets. Names shall be sufficiently different in sound and spelling from other street names in the municipality so as not to cause confusion. The Planning Commission shall approve street names.

9. Street Signs: The developer shall pay for the cost of installing street signs at all intersections within a subdivision. The term "street sign" as used herein shall include all traffic control signs, street name signs and any other street signage that is required for the subdivision. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the City.

10. Dead-End Roads:
    a. Dead-End Roads (Temporary). If the adjacent property is undeveloped and a street more than one lot deep or on which lots front must temporarily be a dead-end street, the right-of-way and road improvement shall be extended to the property line. A temporary dust-proof turnaround having a radius of at least 50 feet shall be provided on all temporary dead-end streets. When a temporary turnaround is required, a notation shall be added on the subdivision plat indicating that land outside the normal street right-of-way shall revert to abutting property owners whenever the street is continued. The Planning Commission may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.
    b. Dead-End Roads (Permanent). Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the Planning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street. An adequate

turnaround of not less than a 60-foot radius right-of-way shall be provided at the closed end of any dead-end street that is longer than one lot in length and that is designed to permanently remain as a dead-end street. Cul-de-sacs shall provide a paved turnaround having a street radius, at the back of curb, of 50 feet. Such street segment shall not exceed 500 feet in length, measured from the centerline of an intersection of a cross street to the center of the cul-de-sac; except that, such streets designed to serve no more than 25 residential lots may be permitted to extend up to 1,000 feet in length.

11. Private Streets: Privately-owned streets within a development shall be built to City standards. Any request to dedicate private streets to the City of Lake Quivira shall be accompanied by a study outlining the improvements that are necessary to bring the streets into conformance with City of Lake Quivira street standards which would include curbs, gutters and pavement, and said improvements shall be made prior to the City accepting the dedication.

12. Excess Right –of-Way: Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate slopes. Such slopes shall not be in excess of 3:1.

13. Intersections:

    a. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) streets at an angle of less than 75 degrees shall not be acceptable. Any street that does not approach an intersecting street at a right angle should be curved approaching an intersection and should be approximately at right angles for at least 100 feet from such intersection. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Planning Commission.
    b. No lot or other parcel of land that abuts on and has access to either a local or collector street shall have a service drive, curb cut, or other means of access to an arterial street.

14. Bridges: Bridges of primary benefit to the applicant, as determined by the Planning Commission, shall be constructed at the full expense of the applicant without reimbursement from the City.

15. Road Dedications and Reservations:
    a. New Perimeter Streets.
        i. The dedication of right-of-way for new public streets measured from lot line to lot line shall meet the following standards.

Minimum Street Right-of-Way	
Street Type	**Minimum R.O.W. Width (Feet)**
Marginal Access	50
Local Street	50
Collector	60-80
Arterial	80-120

        ii. Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within its own subdivision boundaries.

16. Curbs and Gutters: The subdivider shall provide curbs and gutters on all streets. Vertical curbs shall not be less than six (6) inches in height and shall be constructed of Portland cement concrete. A rollback Portland cement concrete curb may be used except where a vertical curb is specified by the City. Backfill shall be higher than the curb in order to ensure that surface water drains into the storm drainage system.

17. Street Surfacing:

    a. After sanitary sewer, storm sewer and water utilities have been installed by the developer, the developer shall construct curbs and gutters as required in these

regulations and shall surface or cause to be surfaced all public and private roadways to the following minimum widths as measured from back of curb to back of curb:

Minimum Street Widths	
Street Type	**Minimum Width**
Marginal Access	28’
Local Street	28’
Collector	37’
Arterial	48’

b. All streets must be hard surfaced. All paving must be provided with a stabilized sub-base and curb and gutter. Adequate provision shall be made for culverts, drains, and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

18. Grading:
    a. All streets, roads, and alleys shall be graded to their full width by the subdivider so that street pavements and sidewalks can be constructed on the same level plane. Deviation from this standard due to special topographical conditions may be allowed by approval of the Planning Commission.

G. Storm Sewer:

1. General Requirements: Unless otherwise specified within these regulations an adequate drainage system, including pipes, culverts, intersectional drains, drop inlets, bridges, etc. for proper drainage of all water shall be installed and paid for by the developer.

   The Planning Commission shall not recommend for approval any plat of subdivision that does not make adequate provision for storm and flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by the Rational Method, or other methods as required by the City, and a copy of design computations shall be submitted along with plans.

Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

2. Dedication of Drainage Easements: When a subdivision is traversed by a watercourse, drainageway, channel, or stream there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose.

   a. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements at least 15 feet in width for drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall extend from the road to a natural watercourse or to other drainage facilities.

   b. The applicant shall dedicate, either in fee simple title or by a drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the City and the Planning Commission.

   c. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways.

H. Sanitary Sewers:

General Requirements. The applicant shall install sanitary sewer facilities. Necessary action shall be taken by the applicant to extend or create a sanitary sewer district for the purpose of providing sewerage facilities to the subdivision when no district exists for the land to be subdivided.

Sanitary sewerage facilities shall connect with public sanitary sewerage systems. Sewers shall be installed to serve each lot. No individual disposal system or treatment plants (private or group

disposal systems) shall be permitted unless approved as a variance or exception.

Individual disposal system requirements if approved as a variance or exception. If public sewer facilities are not reasonably available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the Zoning Regulations unless additional area is required to assure adequate soil conditions to serve each individual lot or subdivision as applicable. Percolation tests and test holes shall be made as directed by the Building Official. The individual disposal system, including the size of the septic tanks and size of the tile fields or other secondary treatment device, shall be approved by the County Health Department.

I. Water Supply

1. The subdivider shall construct a complete water distribution system that shall adequately serve all lots. The system shall include fire hydrants spaced no more than 500 feet apart and at high points in the line, or as otherwise necessary to ensure that all lots are within 250 feet of a hydrant, unless otherwise approved by the City and Fire Chief. This system shall be properly connected with the public water supply. The Planning Commission may deny subdivision approval for areas that cannot be served by adequate water supply and pressure.
2. To eliminate future street cuts, all underground utilities for water distribution system and fire hydrants, together with the fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on a plat.

J. Utilities:

1. Location: All utility facilities, including, but not limited to, gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located above ground, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the Preliminary Plat. Underground distribution and underground connections of each platted lot shall be installed at the subdivider's expense. At the discretion of the Planning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

2. Easements.
   a. Easements centered on rear lot lines shall be provided for utilities (private and public) and such easements shall be at least 20 feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.
   b. When topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least 15 feet wide (7.5 feet each side) shall be provided alongside lot lines with satisfactory access to the street or rear lot lines as needed. Easements shall be indicated on the plat.

K. Sidewalks:

1. Required Improvements: The Planning Commission shall meet with the applicant to determine the need for sidewalks.
   a. Arterial Streets. Five (5) foot sidewalks on both sides of the street.
   b. Collector Streets. Five (5) foot sidewalks shall be required on both sides of all collector streets.
   c. Local and Marginal Access Streets. Five (5) foot sidewalks.

2. Sidewalks shall be improved as required by these regulations. Sidewalks shall be located one (1) foot inside the street right-of-way.
3. Crosswalks shall be required to provide safe and convenient access across streets along existing and future sidewalk network. Curb cuts meeting the minimum standards of the Americans with Disabilities Act shall be provided where sidewalks meet street curbs or connection to another sidewalk across a street is required. Crosswalks across collector or arterial streets shall be clearly marked with approved paint or other more permanent means such as use of unique paving patterns as approved by the City.
4. Pedestrian Accesses: The Planning Commission may require, in order to facilitate pedestrian access, perpetual unobstructed easements at least 10 feet in width with a paved walkway of 5 to 8 feet. To minimize the impact on adjacent property, the walkway shall be adequately landscaped and

screened as required by the Planning Commission. Pedestrian easements shall be indicated on the plat.

L. Open Space:

1. Common Open Space: Common open space provided in a residential subdivision and conveyed to a property owners' association shall remain permanently open for recreational and conservational purposes.
2. Private Open Space: Private open space that is held in common shall be set aside for the benefit, use, and enjoyment of the subdivision lot owners, present and future. All private, common open space, including recreation areas, tree cover areas, scenic vistas, wildlife or plant preserves, nature study areas, and private walkways, whose acreage is used in determining the size and extent of common open space shall be included in restrictive covenants, easements, or other legal devices designated to assure that such space will remain permanently open and maintained.
3. Open space shall be required for new development in approximately the same ratio as currently provided by existing development. New development as well as Quivira, Inc. shall provide not less than 50% of its area in open space. The location of said open space shall be determined by the Planning Commission.

M. Street Signs and Traffic Signals

All traffic signals and traffic signs shall be paid for by the developer.

N. Street Lighting

All Street lights shall be of LED construction, designed and paid for by the developer.

4. <u>Improvement Procedures:</u>

A. Completion of Improvements. Before the final subdivision plat is signed by the City, all applicants shall be required to complete, in accordance with the approved construction drawings and to the satisfaction of the City, all streets, sidewalks, drainage and other public and private improvements, including lot improvements on the individual lots of the subdivision, as required by the City, specified in the Final Plat, and as approved by the Planning Commission, and to dedicate those public improvements to the City of Lake Quivira, free and clear of all liens and encumbrances on the dedicated property and public improvements.

B. Subdivision Improvement Agreement and Guarantee.

1. Agreement: The Governing Body in its sole discretion may waive the requirement that the applicant complete and dedicate all public or private improvements prior to the signing of the Final Plat and, as an alternative, permit the applicant to enter into a subdivision improvement agreement by which the subdivider covenants to complete all required public and private improvements no later than two (2) years following the date of the approval of the improvement agreement. The applicant covenant shall warrant that all required improvements will be free from defect for a period of two (2) years following the acceptance by the Governing Body. The subdivision improvement agreement shall contain such other terms and conditions agreed to by the applicant and the Governing Body.
2. Covenants to Run: The subdivision improvement agreement shall provide that the covenants contained in the agreements shall run with the land and bind all successors, heirs, and assignees of the subdivider. The subdivision improvement agreement will be adopted by the Governing Body and shall be recorded in the Office of the Register of Deeds.
3. Security: Whenever the Governing Body permits an applicant to enter into a subdivision improvement agreement, it shall require the applicant to provide a cash escrow or bond as security for the promises contained in the subdivision improvement agreement. The security shall be in an amount equal to 120% of the estimated cost of completion of the required public improvements, including lot improvements, as prepared by the applicant and approved by the City.

C. Temporary Improvement. The applicant shall build and pay for all costs of temporary improvements required by the Planning Commission and shall maintain those temporary improvements for the period specified by these regulations. Prior to construction of any temporary facility or improvement, the developer shall file with the Governing Body a separate subdivision improvement agreement and cash escrow in an appropriate amount for temporary facilities, which agreement and escrow shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

D. Costs of Improvements. All required improvements whether public or private shall be made by the developer, at its expense, without reimbursement by the local government or any improvement district.
1. General Procedure and Fees: All improvements whether publicly or privately constructed or erected shall be subject to

inspection by the City. The cost attributable to all inspections shall be charged to and paid by the subdivider. Fees shall be due and payable upon demand of the City and no building permits or certificates of occupancy shall be issued until all fees are paid or guaranteed. The subdivider shall give at least 48 hours written notification to the inspector prior to the performance of any work.

2. Inspection Procedure: The City shall designate an Inspector who shall conduct on-site inspections to determine that the work complies with the approved construction drawings and specifications. If said Inspector determines that such work does not comply with the approved construction drawings and specifications, said Inspector shall so notify the subdivider and the Governing Body, and may recommend the Governing Body require the subdivider to terminate all further work until necessary steps are taken to correct any defect, deficiency, or deviation to the satisfaction of said Inspector. Upon the correction of such defect, deficiency, or deviation, the subdivider shall notify the Inspector for a re-inspection.
3. Final Inspection: Upon completion of all improvements within the area covered by the Final Plat, the subdivider shall notify said Inspector who shall thereupon conduct a final inspection of all improvements installed.
4. As-Built Drawings: Before acceptance of any public improvement project, the applicant shall provide the Inspector with one original set on mylar, one copy of the original set, and an electronic copy of the as-built drawings. Electronic copies shall be in a format compatible with the City's designated software.

   The drawings must include results of a post-construction survey. The post-construction survey shall include, but shall not be limited to, the following:

   a. Elevation of all structures, including sanitary sewer manholes, storm sewer inlets, pipe inverts, and structure top elevations;
   b. Final adjusted stationing of all structures, including but not limited to valves, hydrants, and blow-off assemblies; and
   c. Final adjusted contours as featured in the grading and drainage plans.

   The as-built drawings must include a signed Engineer's Certification stating that the drawings are as-built and conform

to construction records and post-construction survey information.

E. Formal Acceptance and Release or Reduction of Security for Public Improvements.

1. Certificate of Satisfactory Completion: The Governing Body will not accept dedication of required improvements, nor release nor reduce the amount of any security posted by the subdivider, until the Inspector has submitted a certificate stating that all required improvements have been satisfactorily completed and until (1) the applicant's engineer or surveyor has certified to the City, through submission of detailed "as-built" drawings, that the layout of the line and grade of all public improvements is in accordance with construction drawings for the subdivision, and (2) a title insurance policy has been furnished to and approved by City Attorney indicating that the improvements have been completed, are ready for dedication to the local government, and are free and clear of any and all liens and encumbrances.

   Upon such approval and recommendation by the City Attorney, the Governing Body shall thereafter accept the improvements for dedication. The Governing Body shall so notify the subdivider in writing, the Final Plat shall be signed by the Mayor, and after payment of all fees required, the subdivider may file the subdivision with the appropriate County Register of Deeds.

2. Reduction of Escrowed Funds and Security: The amount of the escrow shall be reduced upon actual acceptance of the dedication of public improvements and then only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the subdivision. In no event shall a cash escrow be reduced below 25% of the principal amount. Funds held in the escrow account shall not be released to the subdivider, in whole or in part, except upon express written instructions of the Governing Body. At the end of the maintenance and warranty periods, all escrowed funds, if any, shall be released to the subdivider.
3. Appeals: If, after improvements have been constructed or installed, the Inspector refuses to issue a Certificate of Satisfactory Completion, or if the applicant feels aggrieved by any official or officer administering the provisions of this title, an appeal may be taken to the Governing Body. Such appeal shall be filed with the City Clerk within 30 days after the

decision of the official or action creating the appeal by the filing of a notice of appeal specifying the grounds thereof. The official, from whom the appeal is taken, when notified by the City Clerk or its agent, shall forthwith transmit to the Governing Body all the papers constituting the record upon which the action appealed was taken. The Governing Body shall have the power to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Section. In exercising the foregoing powers, the Governing Body, in conformity with this section and amendments thereto, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the official from whom the appeal is taken; may attach appropriate conditions and may issue a Certificate of Satisfactory Completion.

F. Maintenance of Improvements: The developer shall be required to maintain all required public and private improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks until acceptance of the improvement by the Governing Body. If there are any certificates of occupancy on a street not dedicated to the City, the City may, on 12 hours' notice, plow the street or effect repairs and charge those costs to the developer. Following the acceptance of the dedication of any public improvement, the Governing Body may, in its sole discretion, require the subdivider to maintain the improvement for a period of one (1) year from the date of acceptance.

G. Issuance of Building Permits and Certificates of Occupancy.

1. Building Permits. Unless the required improvements have been installed and accepted or approved by the Building Official or guaranteed, no building permits shall be issued for that lot or tract.
2. Occupancy Permits. No occupancy permit shall be issued until all improvements have been installed and accepted by the Building Official.

H. Temporary Occupancy/Escrow Deposits for Improvements.

1. Acceptance of Escrow Funds. Whenever, by reason of a period of inclement weather or the season of the year, any improvements required by the subdivision regulations cannot be performed, the Building Official may issue a certificate of

occupancy, provided there is no danger to health, safety, or general welfare upon accepting a cash escrow deposit in an amount equal to 100% of the estimated cost of completion of the lot improvements. The subdivision improvements agreement and security covering the lot improvements shall remain in full force and effect.

2. Procedures on Escrow Fund. All required improvements for which escrow monies have been accepted by the City at the time of issuance of a certificate of occupancy shall be installed by the subdivider as soon as weather permits and in no case more than a period of nine (9) months from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, the Inspector shall give two (2) weeks written notice to the developer requiring it to install the improvements, and if they are not then installed properly, the Inspector may request the Governing Body to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit. At the time of the issuance of the certificate of occupancy for which escrow monies are being deposited with the City Clerk, the developer shall obtain and file with the City Clerk prior to obtaining the certificate of occupancy a notarized statement from the purchaser or purchasers of the premises authorizing the Building Official to install the improvements at the end of the nine (9) month period if the improvements have not been duly installed by the subdivider.

5. Preliminary Plats – contents and submission requirements.

A. The appropriate number of copies of the preliminary plat as required by the application for shall be submitted in support of the application. The plat shall contain the following information:
    1. North arrow and scale.
    2. Legal description.
    3. The proposed name of the subdivision and the names of adjacent subdivision.
    4. The boundary lines of the tract with approximate dimensions.
    5. The general pattern and sizes of proposed and tracts.
    6. The general location, width and alignment of existing and proposed easements, streets, alleys and sidewalks and the general plan of sewage disposal, water supply and drainage.
    7. All platted or existing streets and property lines or land adjacent for a distance of not less than 400 feet.

8. Topography of the area contained in the plat shown by contour intervals of no more than two (2) feet referred to USGS datum; where the ground is too flat for contours, spot elevations shall be provided.
9. Approximate gradients of proposed streets within the plat.
10. Description of any existing streets or roads which abut, touch upon or extend through the subdivision. The description shall include types and widths of existing surfaces, right-of-way widths, and dimensions of any bridges, culverts, or easements.
11. Location of the 100-year floodplain.
12. The proposed use of land, whether for single-family, multi-family, etc.
13. Indication of the ground floor area classification for residential subdivisions.
14. Name and address of landowner.
15. Name and address of architect, landscape architect, planner, engineer, surveyor or other person involved in the preparation of the plat.
16. Date of preparation of the plat.
17. Signature block for appropriate City Officials.

B. The following items shall be submitted in support of an application for preliminary approval:

1. All other studies as may reasonably be required by the Building Official pursuant to Section SEVEN.5(C).
2. A storm water management plan for the proposed site.

C. Consideration of preliminary plats

No preliminary plat of a proposed subdivision shall be approved by the Planning Commission unless the applicant proves by clear and convincing evidence that:

1. The proposed preliminary plat conforms to the requirements of these regulations, the applicable zoning district regulations and any other applicable provisions of the Code, and any approved development plans.
2. The subdivision represents an overall development pattern that is consistent with the Comprehensive Plan.
3. The plat contains a sound, well-conceived parcel and land subdivision layout, which is consistent with good land planning and site engineering design principles.
4. The spacing and design of proposed curb cuts and intersection locations is consistent with good traffic engineering design and public safety considerations.

5. All submission requirements have been satisfied.

D. Preliminary Plat Action: After the Planning Commission has reviewed the Preliminary Plat, applicable reports submitted, and any additional materials submitted, the Planning Commission shall approve, conditionally approve, or disapprove the Preliminary Plat within 60 days from the official submission date. If the Preliminary Plat is approved conditionally or tabled for further consideration, the applicant shall be advised of any required changes and/or additions necessary for approval.

Action by the Planning Commission shall be conveyed to the applicant in writing within seven (7) working days after the meeting at which the plat was considered. The approval of the Preliminary Plat does not constitute acceptance of the subdivision but is deemed to be an authorization to proceed with the preparation of the Final Plat.

E. The decision of the Planning Commission to approve, approve conditionally, or deny the proposed preliminary plat shall be final. Approval of a preliminary plat shall require the affirmative vote of a majority of the membership of the Planning Commission.

6. Final Plats – contents and submission requirements.

A. Final plats shall be drawn to a scale of one inch to 100 feet, or at such other scale acceptable to the Building Official. The appropriate number of copies of the final plat as required on the application form shall be submitted in support of the application. The final plat shall contain the following information:

1. North arrow and scale.
2. Legal description.
3. The name of the subdivision.
4. A system of lot and block numbers in orderly sequence.
5. The names of streets which shall conform to the existing pattern.
6. A boundary survey of third order surveying accuracy (maximum closure error one in 5,000) with bearings and distances referring to section or fractional section corners or other baseline shown on the plat and readily reproducible on the ground.
7. Calculation sheets containing the following data: length and radii of all curb, street and lot lines; bearings and length of all street and lot lines; and the area in square feet of each lot. Bearings and distances referring to section or fractional section

corners or other baseline shown on the plat shall be readily reproducible on the ground.

8. The dimensions, in feet and decimals of feet, of setback lines along front and side streets and the location and dimension of all necessary easements.
9. Certification of dedication of all steets, highways, easements and other rights-of-way or parcels for public park or other public use, signed by the owners and all other parties who have a mortgage or lien interest in the property.
10. A statement on the plat concerning utility easements as follows: An easement or license to enter upon, locate, construct and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, sewer pipes, poles, wires, drainage facilities, ducts and cables, and similar facilities, upon, over and under these areas outlined and designated on this plat as "Utility Easement" or "U/E" and "Drainage Easement" or "D/E" is hereby granted to the City of Lake Quivira, Kansas, with subordinate use of the same by other governmental entities and public utilities as may be authorized by state law to use such easement for said purposes.
11. A statement on the plat concerning prior easement rights as follows: The undersigned proprietor of said property shown on this plat does hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on said plat as streets, terraces, places, roads, drives, lanes, avenues and alleys not heretofore dedicated. Where prior easement rights have been granted to any person, utility or corporation on said parts of the land so dedicated, and any pipes, lines, poles and wires, conduits, ducts or cables heretofore installed thereupon and therein are required to be relocated, in accordance with proposed improvements as now set forth, the undersigned proprietor hereby absolves and agrees to indemnify the City of Lake Quivira, Kansas, from any expense incident to the relocation of any such existing utility installations within said prior easement.
12. Location and elevations of the 100-year flood plain for all lots thereby affected shall be shown and shall include calculations.
13. Identification of any non-publicly owned streets, roads or drives.
14. Certification by a registered civil engineer or surveyor to the effect that the plat represents a survey made by him or her.
15. Name and address of landowner.
16. Name and address of the engineer or surveyor preparing the plat.

17. Date of preparation of the plat.
18. Signature block for appropriate City Officials.
19. The location of existing monuments or benchmarks shall be shown and described on the Final Plat. Location of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including the true angles and distances to such reference points or monuments.

B. The following items shall be submitted in support of the application for final plat approval:
   1. Documentation assuring permanent responsibility for the maintenance of the fence/ screening tracts easements.
   2. Upon request by the City, a current title report (less than 90 days old) together with legible copies of all pertinent exception documents, or a copy of a current American Land Title Association (ALTA) survey, or both.
   3. Restrictive Covenants. A copy of any restrictive covenants applicable to the subdivision.
   4. Construction Documents. The subdivider shall submit a letter from the Code Enforcement Office that Construction Documents and specifications for all required developer installed improvements have been approved. The content of said drawings is set out in Section NINE.

C. Consideration of final plats
   1. Final plats shall be approved by the Planning Commission if it determines that:
      a. The final plat substantially conforms to the approved preliminary plat.
      b. The plat conforms to all applicable requirements of the Code.
      c. All submission requirements have been satisfied.

D. Final Plat Action by the Planning Commission: After the Planning Commission has reviewed the Final Plat, applicable reports submitted, and any additional materials submitted to determine conformance with the subdivision regulations and Preliminary Plat, the Planning Commission shall approve, conditionally approve, or disapprove the Final Plat within 60 days from the date of the first Planning Commission meeting following the date of submittal. If such determination is not made within 60 days after the first meeting of the Planning Commission following the date of the submission of the final plat to the City, such plat shall be deemed to have been approved and a certificate of approval shall be issued by the secretary of the Planning Commission upon demand by the applicant.

If the Planning Commission finds that the plat does not conform to the requirements of the subdivision regulations or the Preliminary Plat and is approved conditionally or tabled for further consideration, the applicant shall be advised of any required changes and/or additions and the Building Official shall notify the owner or owners of such fact in writing within seven (7) working days of the meeting in which the plat was considered. If the plat conforms to the requirements of the regulations and the Preliminary Plat, there shall be endorsed thereon the fact that the plat has been submitted to and approved by the Planning Commission.

Approval of a final plat shall require the affirmative vote of a majority of the membership of the Planning Commission.

E. Following approval of the final plat by the Planning Commission, the final plat shall be submitted to the Governing Body for review of land easements and rights-of-way proposed to be dedicated for public purposes. The Governing Body shall accept or reject the dedication of land for public purposes within 30 days after the first meeting of the Governing Body following the date of the submission of the plat to the City Clerk. The Governing Body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. If the Governing Body defers or does not accept any such dedication, it shall advise the Planning Commission of the reasons, therefore. No plat shall be filed with the Register of Deeds unless such plat bears the endorsement that the land dedicated to public purposes has been approved by the Governing Body.

F. Upon final approval by the Planning Commission and/or the acceptance by the Governing Body of dedications, the Final Plat shall be submitted in a digital format approved by the Chairman of the Planning Commission. Any Final Plat not submitted in a digital format will be converted by the City and the cost will be charged to the applicant prior to recording the plat.

G. Final Plats shall be recorded with the Register of Deeds within 18 months following Governing Body approval of land dedicated to public purposes. Final Plats which are not recorded within said time period shall be deemed null and void.

SECTION TEN: SUPPLEMENTARY REGULATIONS APPLICABLE TO ALL DISTRICTS

1. Purpose: The regulations defined in this Section apply to all zoning districts.

2. Yard Restrictions: Projections
   A. Bay, bow, or other projecting windows, cantilevers, overhangs, eaves, soffit and gutters etc. may not project into the required yard setbacks.
   B. Entrance steps and walls may project into the required front yards, not to exceed four (4) feet. Steps and walls are to be an integral part of the structure and necessary for access to the structure.

3. Front Yard Setback: Lots with more than one street frontage, such as corner lots or through lots, shall have a front yard setback for each street frontage. For setback purposes, no lot shall be considered to have more than three (3) front yards. If a lot would otherwise be determined to contain more than three (3) front yards, the owner may elect to treat one of the front yards as a rear or side yard, so long as the yard(s) adjacent to the street and main body of the lake shall be a front yard and be subject to front yard setbacks.

4. Exceptions to Yard Restrictions: The Board of Zoning Appeals may grant Exceptions to the yard restrictions established in these regulations as provided in A and B below:

   A. To allow structures within the required front yard, as high, but no higher than the tallest adjacent structure, and/or to allow structures in the required yard, the same distance from the front property line as the adjacent structure that is the furthest from the front property line, when one of the following conditions exists:
      1. the applicant's existing structure is on an interior lot between two
      2. existing non-conforming structures (meaning both are closer to the front property line than 40 feet), or
      3. if the applicant's existing structure is on a corner lot adjacent to a non-conforming structure, or
      4. if the applicant is building on a vacant lot that is between two existing non-conforming structures, or
      5. the vacant lot is a corner lot adjacent to a non-conforming structure, or
      6. as used in this subparagraph 3.A, structures shall be defined to include only enclosed permanent living areas of buildings and shall not include such items as porches, decks, garages, carports, stairs, ramps, trellises or any other man-made construction.

B. To allow structures within the required side and/or rear yards of a lot that abut(s) a parcel of land that could not be developed as a future homesite or other use, if one of the following conditions exists concerning the abutting parcel of lands:

1. it is dedicated parkland
2. it is a dedicated accessway

C. AND if all of the following conditions are met:

1. the District's requirements regulating building height and lot coverage are not exceeded
2. the encroachment into a required side yard does not extend closer than four (4) feet from the side property line
3. the encroachment into the required rear yard does not extend closer than 12.5 feet from the rear property line
4. the encroachment into the required yard cannot be greater than 50% of the width of the dedicated land when another lot abuts the opposite side of the dedicated land. If there is no lot on the opposite side, the Board of Zoning Appeals may grant a distance that they deem reasonable

5. Accessory Structures: No accessory structure shall be erected within the front, rear, or side yard setback areas, including but not limited to porches, vestibules, balconies, walled patios, hot tubs, garages, carports, air conditioning units, swimming pools, wading pools, storage sheds, play houses, tennis courts, basketball courts, and other athletic areas. No detached accessory structure shall be erected closer than five (5) feet to any other structure on the lot. Accessory structures shall have compatible materials and shall be consistent with the architectural style of the principle structure.

A. Decks that meet the following requirements may be built within the front yard setback area:
   1. The deck floor is no higher than an average of five (5) feet from the ground.
   2. The maximum depth is 12 feet or less, but no part of the deck is closer to the front of the property line than 25 feet.
   3. The design is open, having no solid walls, no roof and does not include latticework.
   4. There is no hot tub included in the design.

6. Garages: Each single-family dwelling will have a minimum of a two-car garage.
7. Accessory Uses: Accessory uses shall be permitted only where such use is customarily incidental to and clearly subordinate to the principal use, and where the accessory use is located on the same lot as the principal use. In no

case shall a business or commercial use be permitted as an accessory use in a residential district unless it is permitted as a home occupation.

8. Fences: Fences shall be constructed in accordance with the following requirements and any other applicable codes and ordinances:
9. Temporary Uses: The Governing Body, after a public hearing and recommendation by the Planning Commission, may issue a Special Use Permit for temporary uses not otherwise permitted by these regulations. Such permit shall specify the use not permitted, the location, the maximum duration and any conditions of approval. No Special Use Permit shall be granted unless the temporary use is consistent with the general welfare of the City and does not lessen the enjoyment or usefulness of adjacent property.
10. Home Occupations: Home occupations shall be permitted in any legally existing residence subject to the following restrictions:

    A. Restrictions and Limitations:
        1. The home occupation shall be incidental and subordinate to the principal use of the premises and not more than 25% of the floor area of any one floor of the dwelling unit shall be utilized for a home occupation.
        2. All materials or equipment used in the home occupation shall be stored within an enclosed structure.
        3. No alteration of the exterior of the principal residential building shall be made which changes the character thereof as a residence.
        4. No sign shall be permitted unless required by state statutes and, if so required, shall not exceed two (2) feet in any one direction, shall not be illuminated and shall not be placed closer to the front property line than one-half the distance of the front yard, unless otherwise required by state statutes.
        5. Not more than two persons occupying such dwelling unit as his or her residence shall be engaged in such home occupation.
        6. No equipment shall be utilized that creates a nuisance due to noise or electrical interference.
        7. The off-street parking regulations set forth in Section ELEVEN shall apply to home occupations. In no event shall fewer than two (2) off-street parking spaces be required.

    F. Prohibited Home Occupations: Permitted home occupations shall not in any event include the following:

        1. Retail sales of antiques.
        2. Funeral services.
        3. Retail or wholesale sales of groceries.
        4. Retail sales of second-hand merchandise.
        5. Tourist homes.
        6. Equipment rental.

7. Automobile or other motor vehicles, golf carts and boat repair services.
8. Professional offices for physicians, osteopaths, chiropractors, ophthalmologists, dentists, and other related health care facilities.

11. Storm Water, Drainage, Erosion and Sediment Control:

A. Erosion and sediment control measures are required for any building, landscaping or other construction activity which requires grading, excavation, filling or other land disturbance. Effective control measures to protect adjoining property and street right-of-way from runoff of sediment or debris shall be in place prior to any land disturbance and shall be maintained until vegetative cover is re-established at the site. Permanent grass or other vegetative cover must be established at a sufficient density to provide erosion control at the site as soon as practicable following completion of construction or grading activity.
B. Building permit applications for new construction or additions which affect the perimeter of an existing structure must include an erosion and sediment control plan showing on the site plan the location and description of control measures to be maintained during the construction. Effective control devices include filter barriers, e.g., silt fences, straw bales or equivalent measures on small areas; for disturbed areas draining more than one (1) acre a sediment trap, sediment basin or equivalent control measure may be required. An engineered storm water plan must be submitted with the application.
C. Each and every time that an erosion control device is breached for construction purposes, deliveries, by natural forces, etc., the property owner and contractor will be responsible to adequately restore the breached area before the end of that workday.
D. A temporary access path of rock or gravel shall be provided for all construction sites to prevent curb damage and to minimize tracking of mud and debris onto streets or adjoining properties. Any sediment tracked or deposited on a street shall be removed by shoveling or street cleaning before the end of each workday.
E. Provisions shall be made in the finished grade to protect adjoining property from accelerated and increased surface water drainage, silt from erosion, and any other negative drainage consequences that result from the construction. Drainageways must be designed so that their final gradients and the resultant velocities and rates of discharge will not create additional erosion onsite or downstream.
F. Inspection and Remedy. If a property owner or contractor fails to install or maintain effective erosion control measures, the City shall notify the responsible party to correct the deficiencies. If the City is

unable to contact the responsible party, or corrective measures are not completed within 48 hours of notification, the City may proceed to install the appropriate control measures. The cost for any work performed by the City hereunder shall be assessed against the performance bond provided for by City Policy.

G. Penalty. Failure to conform to the foregoing regulations may result in a penalty or fine.

SECTION ELEVEN: PARKING REQUIREMENTS

1. Applicability: Off-street parking and loading space, as required in this article, shall be provided for all new buildings or additions thereto. Off-street parking and loading space shall be required for any existing building or structure, which is altered in any manner so as to enlarge or increase capacity by adding or creating dwelling units, guestrooms, floor area or seats. Existing parking spaces previously required shall not be used to satisfy required off-street parking for any new structures or uses of land. Such existing parking space shall be maintained and shall not be reduced so long as the main building, structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this article.

2. General Provisions:

   A. Utilization: Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses.
   B. Repair Service: No motor vehicle repair work or services of any kind shall be permitted in association with any off-street parking facilities.
   C. Computation: When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of one-half (1/2) or less may be disregarded, and a fraction in excess on one-half (1/2) shall be counted as one parking space.

3. Layout and Design Requirements:

   A. Area: Each required off-street parking space shall be at least nine (9) feet in width and at least 18 feet in length, exclusive of access drives or aisles, ramps, and columns.
   B. Access: Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

C. Lighting: Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with the residential use.
D. Paving: All driveways, off-street parking spaces and access-ways shall be paved with asphalt or concrete.

4. Parking Requirements:

A. Residential Uses: Four spaces per dwelling unit which includes spaces on driveway and in garage.

SECTION TWELVE: SIGN REGULATIONS

1. Applicability: No land or building or structure shall be used for sign purposes except as specified herein. All signs legally existing at the time of passage of these regulations may remain in use under the conditions of legal nonconformance. Signs in legal nonconformance shall not be enlarged, moved, lighted, or reconstructed; however, the change of the advertising display shall not be restricted except as previously stated. After the effective date of this regulation, no sign shall be erected, enlarged, constructed or otherwise installed.

A. Traffic Safety

1. No sign shall be maintained at any location where by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic or railroad control sign, signal or device, or where it may interfere with, mislead, or confuse traffic
2. Any sign located within three (3) feet of a driveway or within a parking area shall have its lowest elevation at least ten (10) feet above the curb level; however, no sign shall be placed so as to project over any public right-of-way

2. Exemption: The following signs shall be exempt from the requirements of this article, except for the provisions of Subsection A above:

A. Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings and other, instructional, or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.
B. Informational signs of a duly constituted governmental body.

SECTION THIRTEEN: NONCOMORMITIES

1. General: Non-conformities are of three types: non-conforming lots of record, non-conforming structures, and non-conforming uses.

A. Non-Conforming Lots of Record: An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
B. Non-conforming Structures: An existing structure which does not comply with the height or yard requirements which are applicable to new structures in the zoning district in which it is located.
C. Non-conforming Uses: An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

2. Non-Conforming Lots of Record:

A. Said lot is shown by the recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations.
B. Said lot has remained in ownership separate and individual from adjoining tracts or land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations.
C. Said lot can meet all yard regulations for the district in which it is located.

3. Non-Conforming Structures:

A. Authority to Continue: Any structure existing prior to the effective date of this Section THIRTEEN.3 which is devoted to a use which is permitted in the zoning district in which it is located, but which structure does not comply with the applicable height, lot coverage and yard setback requirements, is hereby deemed to be legally non-conforming and may be continued, so long as it remains otherwise lawful.
B. Repair or Alteration: Any legally non-conforming structures, subject to existing height, lot coverage and yard setback requirements, may be maintained, repaired and altered, provided that no such repairs or alterations shall be made which change the nature of the structure or which create any additional nonconformity or increase the degree of the existing legal nonconformity of any part of such structure. For the purpose of this Section THIRTEEN.3, the term "nature of the structure" is defined as the manner in which such structure was constructed and/or used as of November 4, 2002.
C. Damage or Destruction: In the event that any legally non-conforming structure is damaged or destroyed, it may be restored to its prior size

and shape. No repairs or restoration shall be made unless a building permit is obtained, and restoration is begun within one (1) year after the date of such damage or destruction and is thereafter diligently pursued to completion.

D. Moving: No legally non-conforming structure shall be moved in whole or in part for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

4. Non-Conforming Uses:

A. Authority to Continue: Any lawfully existing non-conforming use of part or all of a structure of any lawfully existing non-conforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.

B. Ordinary Repair and Maintenance:

1. Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a non-conforming use.
2. Nothing in these regulations shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.

C. Extension: A non-conforming use shall not be extended, expanded, enlarged or increased in intensity. Such prohibited activities shall include, but not be limited.

1. Extension of such use to any structure or land area other than that occupied by such non-conforming use on the effective date of these regulations or on the effective date of subsequent amendments hereto that cause such use to become non-conforming.
2. Extension of such use within a building or other structure to any portion of the floor area that was not occupied by such non-conforming use on the effective date of these regulations or on the effective date of subsequent amendments thereto that cause such use to become non-conforming; provided, however, that such use may be extended throughout any part of such

building or other structure that was lawfully and manifestly designed or arranged for such use on such effective date.

D. Enlargement: No structure that is devoted in whole or in part to a non-conforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
E. Damage or Destruction: In the event that any structure that is devoted in whole or in part to a non-conforming use is damaged or destroyed, by any means, to the extent of more than 60% of its appraised value, such structure shall not be restored unless such structure and use thereof shall thereafter conform to all regulations of the zoning district in which it is located, When such damage or destruction is 60% or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is begun within one (1) year after the date of such partial destruction and is diligently pursued to completion.
F. Moving: No structure that is devoted in whole or in part to a non-conforming use and no non-conforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to regulations of the zoning district in which it is located after being so moved.
G. Abandonment or Discontinuance: When a non-conforming use is discontinued or abandoned for a period of 12 consecutive months, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.
H. Non-conforming Accessory Uses: No use which is accessory to a principal non-conforming use shall continue after such principal use shall cease or terminate.

SECTION FOURTEEN: ADMINISTRATION

1. Planning Commission and Board of Zoning Appeals: The City shall establish a Planning Commission and a Board of Zoning Appeals with the powers and duties as provided by State statute and these regulations. The membership of each body shall be appointed by the Governing Body. Each body shall establish rules of procedure and elect officers consistent with State law. Minutes shall be kept of all proceedings showing evidence presented, findings of fact and decisions or recommendations made. Such records shall be filed in the office of the City Clerk and shall be public record.

2. Appeals: The Board of Zoning Appeals shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or interpretation made by the Building Official, City Clerk or Planning Commission in the enforcement of these zoning regulations.

A. Appeals to the Board may be taken by any person aggrieved, or by any officer of the City of Lake Quivira, or by any governmental agency or body affected by any decision of the person or body administering the provisions of the zoning regulations. Such appeal shall be filed with the City Clerk within a reasonable time. The City Clerk shall forthwith transmit to the Secretary of the Board all papers constituting the record upon which the action appealed from is taken.
B. An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official certifies to the Board, after the Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.

3. Variances: The Board of Zoning Appeals may authorize in specific cases a variance from the specific terms of these zoning regulations where, due to a special condition, a literal enforcement of the provisions of these regulations will result in unnecessary hardship. Such variance shall not permit any use not permitted by the zoning regulations in such district.

    A. The applicant must show that his or her property was acquired in good faith and where, by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the district zoning regulations, or where, by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances, the strict application of the terms of the zoning regulations actually prohibit the use of this property in the manner similar to that other property in the zoning district where it is located.
    B. A request for a variance may be granted upon a finding by the Board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
        1. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or applicant;
        2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
        3. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
        4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;

5. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

4. Exceptions: The Board of Zoning Appeals may grant Exceptions to the provisions of these zoning regulations in those instances where the Board is specifically authorized to grant such Exceptions.
    A. In no event shall Exceptions to the provisions of these regulations be granted where the Exception contemplated is not specifically listed as an Exception in the regulations.
    B. Further, the Board shall not grant an Exception when the conditions of this Exception are not found to be present in these regulations.
    C. When determining whether to grant an Exception the Board should consider: 1) how substantial the Exception requested is in relation to the zoning requirement, 2) whether a substantial change will be produced in the character of the neighborhood, 3) whether the difficulty can be obviated by some method feasible for the applicant to pursue other than an Exception, 4) whether, in the view of the manner in which the difficulty arose, the interest of justice will be served by allowing the Exception, and 5) whether the Exception would grant a privilege not commonly granted in the district.
    D. The Board of Zoning Appeals may grant Exceptions to these regulations as necessary to comply with the Federal Fair Housing Act, as amended, regarding the handicapped.

5. Publication and Notification: The Board shall affix a reasonable time for the hearing of an Appeal, Variance or Exception. Notice of the time, place, and subject of the hearing shall be published once in the Official City Newspaper at least 20 days prior to the date fixed for the hearing. A copy of the notice shall be mailed to each party to the Appeal, Variance or Exception and to the City Planning Commission.

6. Appeals of the Board of Zoning Appeals / Governing Body Action: Any person, official, or governmental agency dissatisfied with any order or determination of the Board may bring an action in the district court of the county to determine the reasonableness of any order or determination. Such appeal shall be filed within 30 days of the final decision of the Board.

7. Building Permits:

    A. No building or other structure (including swimming pools) shall be erected, constructed, reconstructed, moved, nor shall it be altered without first obtaining a building permit from the City Planning Commission, to be issued in accordance with the terms of these Regulations. Such permit shall be issued for a period of one (1) year from the date thereof.

B. Applications for building permits shall be filed with the City Clerk upon forms prescribed and shall be accompanied by the legal description of the lot, tract or parcel of land, together with a general description of the building or structure to be constructed, erected or altered thereon including the size and shape, square foot area, principal materials of construction, location of the building or structure upon the lot, tract or parcel, the estimated construction cost, and the intended use. Drawings, plans, descriptions or other information shall be submitted with the building permit application as may be required by the City. For new construction or additions affecting the perimeter lines or roofline of an existing structure, the application materials must include the following:

1. Building plans must bear the seal of a registered architect or engineer. Plans shall include floor plans including foundation; exterior elevations showing finish grade at the front of the building and noting materials and finishes; typical wall sections; and structural plans showing all structural members including joists and rafters, size of all footings and reinforcing steel, and details of all construction unique to the building industry.
2. The lot, tract or parcel of land must be surveyed by an engineer or land surveyor licensed in the State of Kansas, giving the legal description, boundary survey and topography of the property. The survey should also identify existing easements on the property. Permanent iron pins set in concrete are to be placed at all corners.
3. Site Plan showing the location of existing and proposed structures, front, side and rear setback lines, drive and walk locations, and location of adjacent residences. The Site Plan must also show the existing grade and topography, and the proposed finished grade and final contour elevation at a contour interval of not more than two (2) feet on USGS datum, and shall also include retaining walls, driveway gradient, and drainage culverts.
4. Erosion and Sediment Control Plan showing on the Site Plan the location and type of control measures to be maintained during the construction to prevent runoff of silt, mud, gravel or other debris from the construction site.

C. For each building permit application reviewed by the Planning Commission, there shall be a fee collected in accordance with a schedule established by the Governing Body. There shall be a separate permit for each building or structure, except for accessory buildings or related structures which may be included with the principal building when construction is simultaneous.

SECTION FIFTEEN: SERVARABILTY

1. Severability: It is hereby declared to be the intention of the City that the provision of these regulations are severable, in accordance with the following rules:

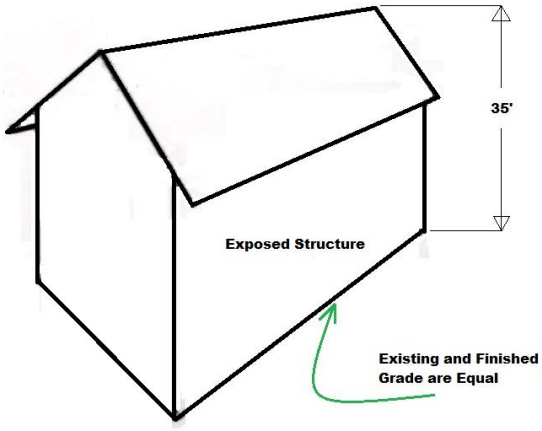
    a. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure.
    b. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure.

Appendix A

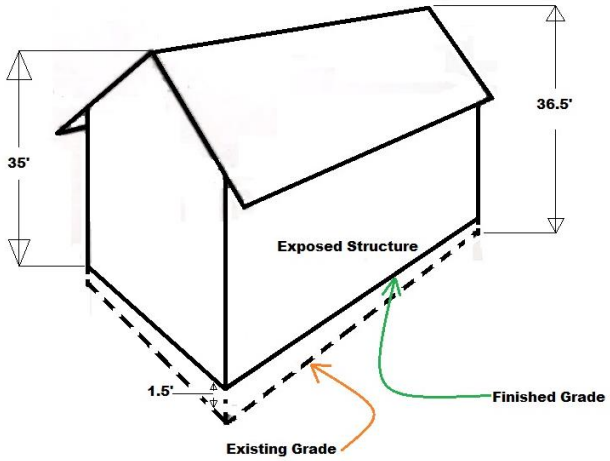
Building, Height of: The vertical distance from the lowest visible point on the existing or new structure to the highest point on the roof, excluding chimneys.

Max Building Height: 35 feet above the Finished Grade, not to exceed 36.5 feet above the existing, pre-construction grade

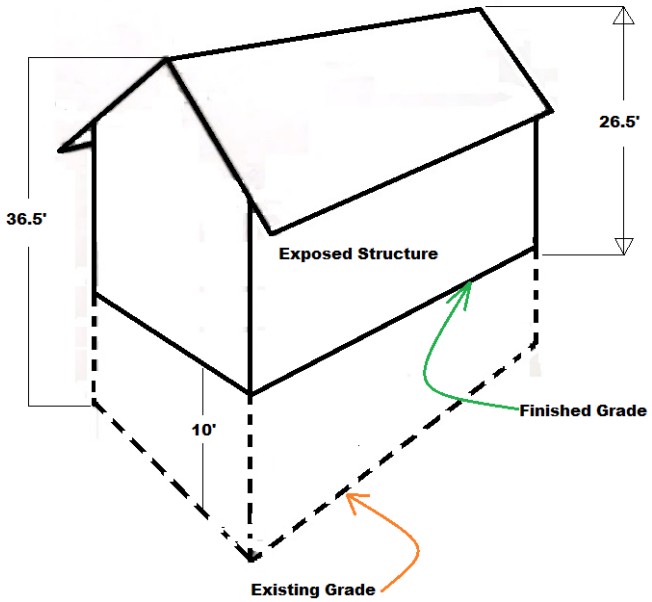
EXAMPLE 1



EXAMPLE 2

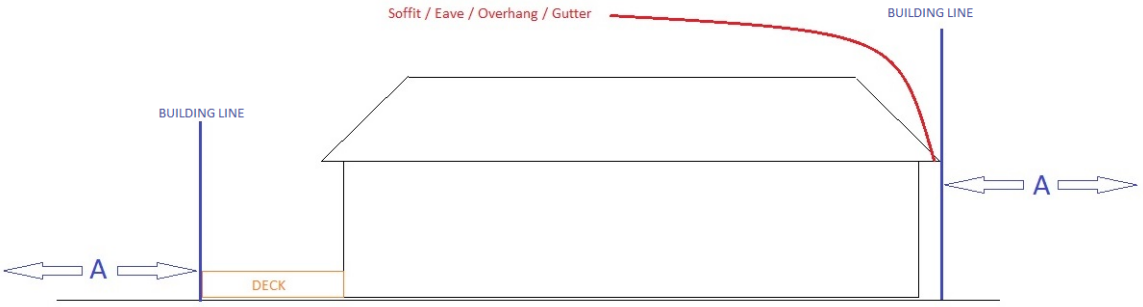


EXAMPLE 3

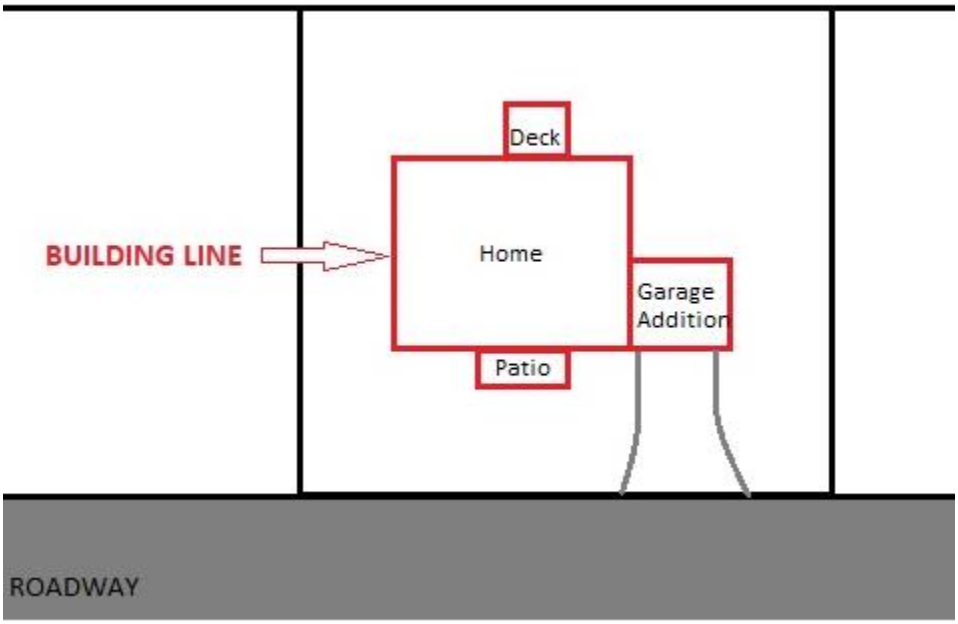

26.5'
36.5'
Exposed Structure
Finished Grade
10'
Existing Grade

Appendix B

Building Line. A line indicating the portions of the lot area covered by structures, including but not limited to; accessory structures (including cantilevers, overhangs, eaves, soffit and gutters etc.) such as porches, patios, decks, pools, and tennis courts, but not including driveways, sidewalks and parking areas.



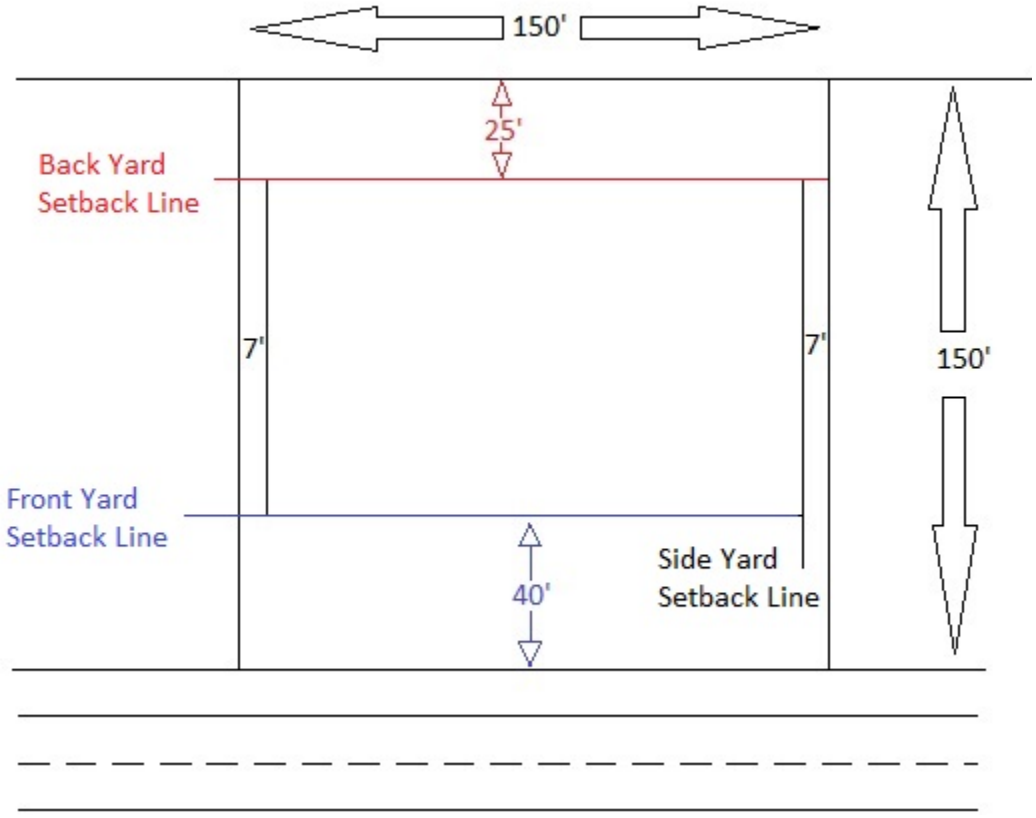
A = The distance from the structure to the setback line
(or property line if a requesting a variance).



Appendix C

Setback Line

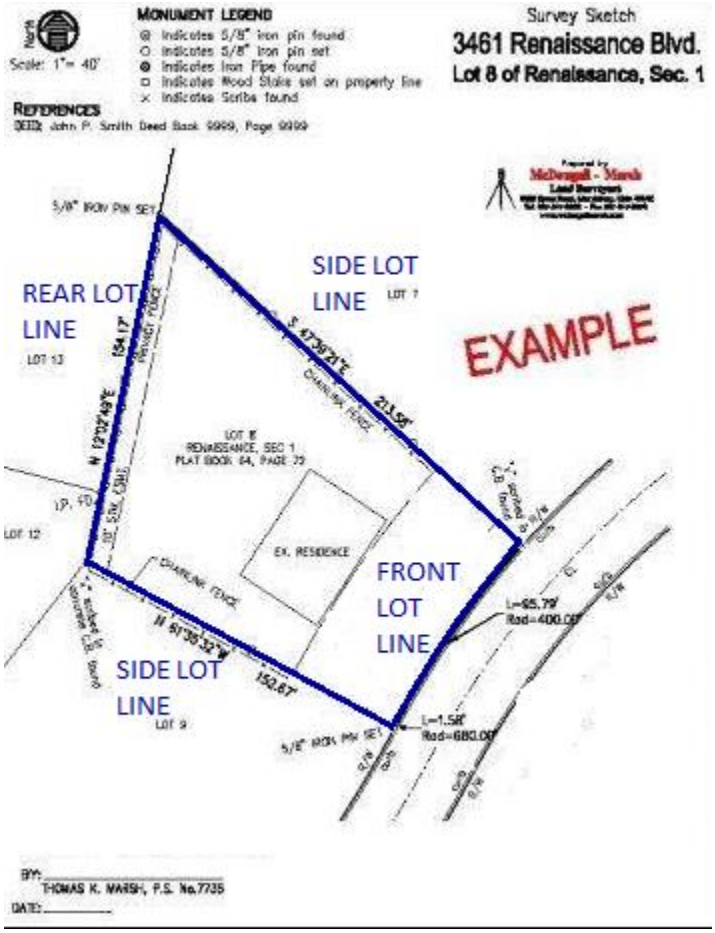
The horizontal and vertical line beyond which no construction can occur except as provided herein. No soffit, cantilevers, overhang, gutter, etc. shall cross the setback line.



Appendix D

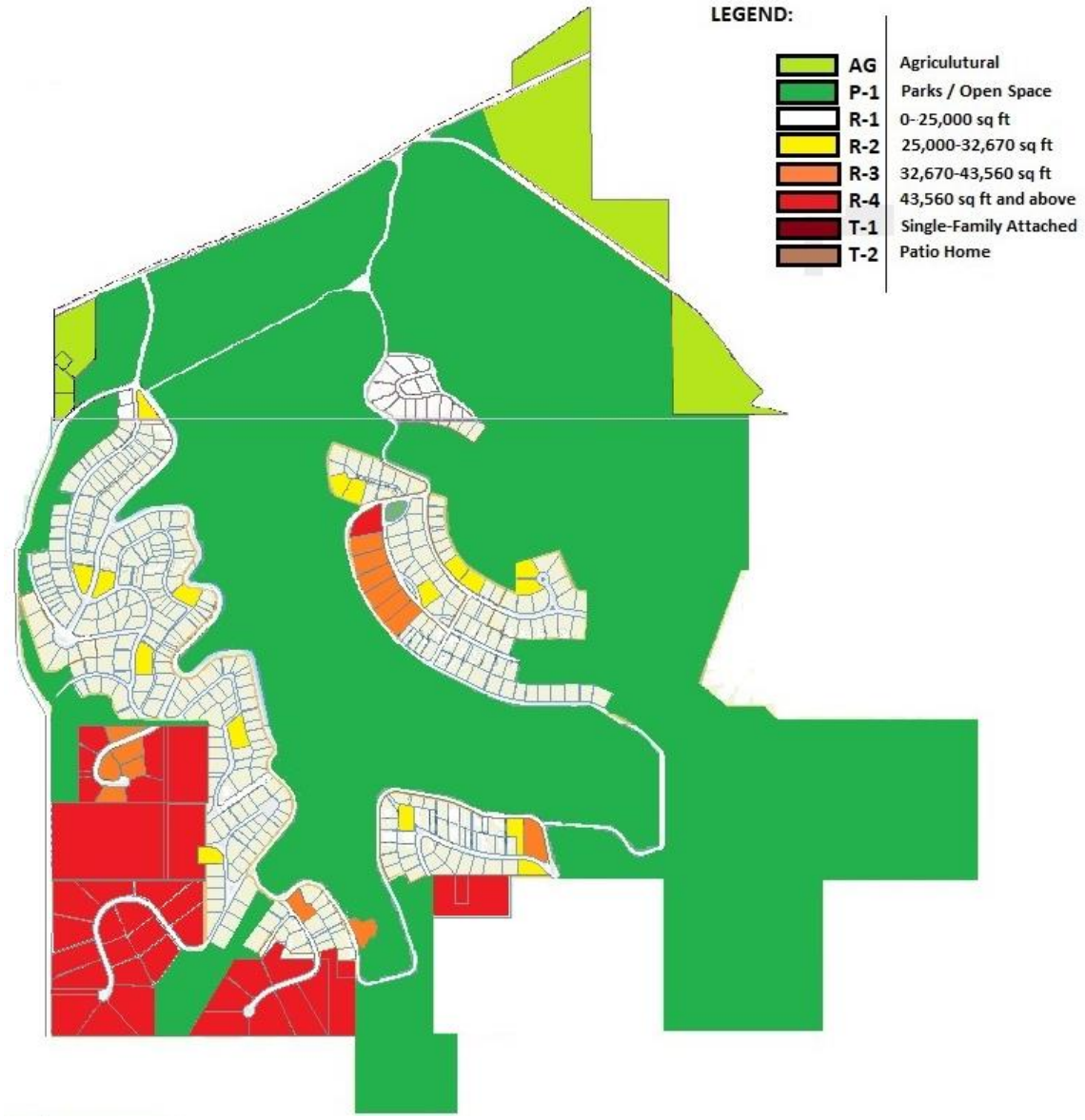
Lot Lines

Front, Rear, and Side lot lines depicted below:



Appendix E

Zoning District Map



Source: Johnson County AIMS dataset