

AGENDA

FOR THE REGULAR MEETING OF THE CITY OF BELEN PLANNING AND ZONING COMMISSION, STATE OF NEW MEXICO, COUNTY OF VALENCIA TO BE HELD ON TUESDAY THE 31TH OF MAY 2016 AT 6:30 PM IN THE COUNCIL CHAMBERS AT CITY HALL, 100 SOUTH MAIN STREET, BELEN, NEW MEXICO 87002.

ALL P & Z COMMISSION MEETINGS ARE VIDEO AND AUDIO RECORDED.

A COPY OF THE AGENDA CAN BE OBTAINED FROM THE OFFICE OF THE CITY OF BELEN PLANNING & ZONING DEPARTMENT.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGEANCE**
- 4. APPROVAL OF AGENDA**
- 5. APPROVAL OF MINUTES:**
Minutes of May 9, 2016
- 6. PUBLIC HEARING WITH POSSIBLE ACTION**
 - A. REQUEST TO AMEND THE ZONE MAP FROM R-1 TO C-1: HERMAN TABET.**
LEGAL DESCRIPTION: Township 5 North, Range 2 East, Section 18, Map 100, Block 17, Lots 25-32, BTS Addition, Located on the corner of 6th & Reinken Ave. Belen, NM 87002.
- 7. DISCUSSION/REVIEW**
Zoning Ordinance Review of proposed changes.
- 8. OPEN COMMENTS/REQUESTS**
- 9. ADJOURNMENT**

RESPECTFULLY SUBMITTED

/S/

Lisa R Miller

Planning & Zoning Administrator

cc: Mayor & City Council
Belen Public Library
Belen Recreation Center

Belen Chamber of Commerce
News Bulletin
Belen City Hall

JERAH R CORDOVA
MAYOR
JAY RUYBALID
CITY MANAGER



CITY OF BELEN
100 SOUTH MAIN STREET
BELEN, NEW MEXICO 87002
(505) 966-2746
www.belen-nm.gov

WAYNE GALLEGOS
MAYOR PRO-TEM
DAVID CARTER
CITY COUNCIL
DARLEEN ARAGON
CITY COUNCILOR
FRANK ORTEGA
CITY COUNCILOR

CITY OF BELEN
PLANNING & ZONING COMMISSION MEETING
MINUTES
MAY 25, 2016

Chairman Tom Greer called the regular meeting of the Belen Planning and Zoning Commission meeting to order at 6:30 p.m.

PRESENT: Chairman Tom Greer
Vice Chair Steve Ethridge
Commissioner Debbie Thompson

ABSENT: Commissioner Claudine Montano
Commissioner Gordon Reeves

CITY STAFF: Lisa R Miller, P & Z Administrator
Steven Tomita, Planning & Economic Development Director
Robert Uecker, Belen Alexander Airport Manager

PLEDGE OF ALLEGEANCE

Commissioner Debbie Thompson led the Pledge.

APPROVAL OF AGENDA:

Commissioner Debbie Thompson moved to approve the Agenda.

Vice Chair Steve Ethridge seconded the Motion.

Motion Carried.

APPROVAL OF MINUTES:

The Minutes of the Regular Meeting of April 25, 2016 were reviewed.

Vice Chair Steve Ethridge moved to approve the minutes as corrected.

Commissioner Debbie Thompson seconded the motion.

Motion carried.

DISCUSSION/REVIEW

Airport Overlay Zone

Steven Tomita informed the Commission that there are some things that need to be worked on that are important. We need to address these conditions. The airport manager has been working with the Air Force on using the airport for some of their training and one concern they had was what is the City doing to protect their interest. He has contacted Moltzen & Corbin and the reports that were done for the new runway have been furnished. This report is the final Environmental Assessment for the establishment of a new C-130 landing zone. These aircraft will be low flight approach. He went over the Comparison of the Proposed Action Alternatives to Selection Standards charts, and Belen was the only area that met all of the criteria. What Belen needs to do now is to protect the area of the airport and the surrounding areas. The Air Force was invited to come to the meeting to discuss what their concerns are, but they unfortunately did not make it. In the report the Crosswind Runway 13/31 Location shows the airspace and the deceptal levels expected in those areas. Those areas are going to need to be protected and restrictions need to be placed on anything that goes in those areas. There is also a map of the Land Use areas addressed and he has some issues with this. Lisa was asked what the zoning was at the airport.

Lisa Miller said that the original runway was zoned SU-1 and the area around that was C-1 along with the area that was annexed into the City in 2008.

Steven Tomita said that their land use around the airport is transportation. Robert Uecker and I have been marketing this area as Commercial. We are going to have the Land Use Plan of theirs amended.

Chairman Tom Greer asked how it got the land use designation of transportation.

Steven Tomita said that he was not sure. A zone map and a land use map are two different things. The land use map shows what is expected to happen around the airport area. Transportation where they show it makes no sense.

Chairman Tom Greer asked what can go into a transportation use area.

Steven Tomita said aircraft, taxies, busses, etc. There is an aviation company that is interested in an area where they have the land use as transportation. WE need to look at these uses and look at deceptal levels. This needs to be address very quickly.

Chairman Tom Greer said the noise designation and the height restrictions that he thinks need to addressed in the beginning. He asked Robert Uecker about the runways.

Robert Uecker said the longer runway, the one running Northwest to Southeast, is the one they want to use on their low flight approach. The other, original runway is just mainly a fly over for the Air Force. There are a lot of local airplanes that land on that one.

Steven Tomita said that we need to know how low they are coming in approaching the runway so that we can inform the owners and set areas and parameters for those areas.

Chairman Tom Greer said that he was interested to know what kinds of other businesses can utilize the airport.

Robert Uecker said it is a balance of a whole lot of things. The new runway can hold the weight of a 737 but the runway itself is fairly short. Smaller planes would have no problems there.

Steven Tomita said that they have introduced it to small manufacturing companies that do ship their own products by plane. They use smaller cargo planes. Some charter planes have been looking at the airport.

Robert Uecker said that Beals executive use the airport now. They fly in to check on the store and then leave. The airport is putting in a new 24/7 fuel station now.

Steven Tomita said that we need more questions answered by the Air Force and was hoping they would attend the meeting tonight so that some of these questions could be answered. He will again check with Moltzen & Corbin again to see if they have any more information. That is the information that he had for the Commission for the meeting.

OPEN COMMENTS/REQUESTS

Chairman Tom Greer would like his renewal of the Conditional Use permit for the Rail Café placed on the next agenda if possible.

Vice Chair Steve Ethridge informed the Commission that the conference he attended in Las Cruces was informative. They spoke on mobile food vendors and tiny homes.

Chairman Tom Greer said that he has seen some of the tiny homes and they are nice. He was looking at them as a possibility for the vacant land he has by the Rail Runner.

Lisa Miller said they would not be allowed in that area. It would require a zone change.

Vice Chair Steve Ethridge was glad to see Dwayne Pena was there, being the Code Enforcement Officer for the City now.

Lisa Miller said that attending the conferences also helps Council and Commissioners of the processes that are required for the changes that are made to our Ordinances. It gives them an idea of the process of what needs to be done. Since they are the ones that review these changes and amend the Ordinances it is a good idea for them to be familiar with the process.

Steven Tomita informed the Commission that he is pushing tourism based on what we have here and the fact that we have had so many films here. Tourism can really help this area.

ADJOURNMENT

There being no further business to come before the City of Belen Planning & Zoning Commission, Commissioner Debbie Thompson moved to adjourn.

Vice Chair Steve Ethridge seconded the motion

The regular meeting of the City of Belen Planning & Zoning Commission adjourned at 7:26 pm.

Chairman Tom Greer

ATTEST: _____
Steven Tomita, Planning & Economic Development Director

**CITY OF BELEN, NEW MEXICO
AMENDMENT TO ZONING MAP APPLICATION
(ZONE CHANGE)**

Applicants Name: Herman Tabet Phone: 505-864-4478
Address: 606 Baca Ave., Belen NM 87002
Authorized AgentsName: _____ Phone: _____
Address: _____

Address of Property: None
Block and Lot: Block 17, Lots 25-32 Addition: BTS Addition
Tract Number: _____ Map: _____
Total acreage in Tract: _____
Number of Dwellings: _____ Density/Acre: _____
Zoning of Property: R-1 Present Use: Vacant
Requested Zoning: C-1

APPLICATION REQUIREMENTS

The following material must be provided by applicant.

- Filing fee of \$250.00
- Letter of transmittal, describing existing zoning, proposed zoning and reasons for the request.
- Affidavit of ownership.
- A scaled drawing describing the survey of tract boundaries, the location of all roads on and adjacent to the tract, the existing zoning for the tract and adjacent properties.
- Survey plat showing boundary, metes and bounds description of the land proposed for rezoning.

The Applicant must also do the following:

- Post and maintain one or more signs on the premises involved at least fifteen days prior Public Hearing Date and remove such signs within five days after Public Hearing Date.

NOTE: Failure to do so is grounds for deferral or denial of this application.

Accompanying this application are the above listed requirements for the proposed Amendment to the Zoning Map. I have examined and am familiar with the zoning regulations of the present zone and the requested zone. I understand that the City of Belen will not assume any liability for a possible lack of understanding on my part.

Herman Tabet
Signature of Applicant

5/2/16
Date

**THIS APPLICATION REQUIRES A PUBLIC HEARING BY THE PLANNING & ZONING
COMMISSION AND THE BELEN CITY COUNCIL.**

Planning and Zoning Commission Meeting Date: 05-30-2016 Approved/Disapproved: _____
Belen City Council Meeting Date: _____ Approved/Disapproved: _____

FEE PAID: \$250 RECEIPT NO.: 2.203290 DATE: 3-May-2016

OWNERS AFFIDAVIT

STATE OF NEW MEXICO)
COUNTY OF VALENCIA) SS
CITY OF BELEN)

We,

I Herman Tabet
(Please PRINT name in full)

being duly sworn, depose and say that (I am) (we are) the owner(s) of property located at

Block 17, Lots 25-32, BTS Addition, for which (**I am**) (we are)
(Address)

requesting a (**Zone Change**, Special Use Permit, Variance, Conditional Use, Annexation, Appeal, Replat, Lot Split, Etc.)

Zone Change through the City of Belen. Furthermore, (I) (we) hereby appoint

_____ of _____ as our agent to act in our behalf on all matters pertaining to the processing of this application.

Herman Tabet
Signed
407 S. Mesa Rd
Address
Belen, NM
505-220-8747
Phone

Subscribed and sworn to before me this 3 day of May, 2016.

Joni Jay
Notary

My Commission Expires:

Feb 25, 2017

**CITY OF BELEN
100 SOUTH MAIN STREET
BELEN, NM 87002
(505) 864-8221**

**AMENDED
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN to the public and all parties of interest that the Belen Planning and Zoning Commission will conduct a public hearing to consider a **REQUEST TO AMEND THE ZONE MAP FROM R-1 TO C-1: HERMAN TABET.**

LEGAL DESCRIPTION: Township 5 North, Range 2 East, Section 18, Map 100, Block 17, Lots 25-32, BTS Addition, Located on the corner of 6th & Reinken Ave. Belen, NM, 87002.

You are further notified that this public hearing will be held on **Tuesday, May 31, 2016 at 6:30 PM**, in the Council Chambers at City Hall, 100 South Main Street, Belen, NM 87002. Any person having objections or wishing to be heard should make such protests to the Belen Planning and Zoning Commission at the above stated date and time. Comments should be mailed to the Belen Planning and Zoning Department at 100 South Main Street, Belen, NM 87002.

The Belen City Council will consider the recommendation of the Belen Planning & Zoning Commission and take action on the request to Amend the Zone Map at a public hearing which will be held on **Monday, June 20, 2016 at 6:00 P.M.**, in the Council Chambers at City Hall, 100 South Main Street, Belen NM 87002

LEGAL NOTICE PUBLISHED: May 12, 2016



ZONE CHANGE
LOCATION

N SEVENTH ST

GOEBEL AVE

NSIXTHST

WCHAVEAVE

NFIFTHST

WREINKENAVE

NFOURTHST

Title 17 - ZONING

Chapters:

Chapter 17.04 – GENERAL PROVISIONS AND DEFINITIONS

Chapter 17.06 – NIGHT SKY PROTECTION

Chapter 17.08 – ZONE DISTRICTS ESTABLISHED

Chapter 17.12 – A-R AGRICULTURAL/RESIDENTIAL

Chapter 17.16 – R-1 SINGLE FAMILY RESIDENTIAL

Chapter 17.20 – R-1A SINGLE FAMILY MIXED

Chapter 17.24 -- R-2 MULTIFAMILY RESIDENTIAL

Chapter 17.25 – R-2A HIGH DENSITY RESIDENTIAL

Chapter 17.26 – R-3 SMALL LOT RESIDENTIAL

Chapter 17.27 – R-4 MEDIUM RESIDENTIAL

Chapter 17.28 – C-R COMMERCIAL/RESIDENTIAL

Chapter 17.30 -- BECKER AVENUE ZONE

Chapter 17.32 – C-1 GENERAL COMMERCIAL

Chapter 17.33 – C-2 MIXED USE

Chapter 17.36 – MAIN STREET OVERLAY ZONE

Chapter 17.40 -- M-C MANUFACTURING/COMMERCIAL

Chapter 17.41 – M-1 INDUSTRIAL AND BUSINESS PARK

Chapter 17.44 – SU-1 SPECIAL USE

Chapter 17.48 – ALLOWABLE LAND USES

Chapter 17.52 – NONCONFORMING USES AND STRUCTURES

Chapter 17.54 – LANDSCAPE REGULATIONS

Chapter 17.56 – OFF-STREET PARKING AND LOADING

Chapter 17.58 – SIGN REGULATIONS

Chapter 17.59 – WIRELESS TELECOMMUNICATIONS FACILITIES

Chapter 17.60 – ADMINISTRATION AND ENFORCEMENT

Chapter 17.04 - GENERAL PROVISIONS AND DEFINITIONS

Sections:

17.04.010 - Title

17.04.020 - Purpose

17.04.030 – Application

17.04.040 – Definitions

17.04.010 - Title.

These regulations shall be known as the "comprehensive zoning ordinance" of the city of Belen, New Mexico, and shall be referred to herein as "this title."

(Ord. 370 § 1, 1975)

17.04.020 - Purpose.

The regulations and restrictions of this title are designed to lessen congestion in the streets and public ways; to secure safety from fire, flood, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions for transportation, water,

sewerage, schools, parks, and other requirements; to conserve the value of buildings and lands; and to encourage the most appropriate use of land throughout the city of Belen.

(Ord. 370 § 2, 1975)

17.04.030 - Application.

No structure shall be constructed, erected, placed, or maintained and no land use commenced or continued within the city of Belen except as specifically, or by necessary implication, authorized by this title. Conditional uses are allowed only on permit granted by the Belen planning and zoning commission upon finding that the specified conditions exist. Any use not designated a permissive or conditional use in a zone district is specifically prohibited in that zone district, except as otherwise provided herein.

(Ord. 370 § 3, 1975)

17.04.040 - Definitions.

For the purpose of this title, certain terms, words, or phrases used herein shall be interpreted as follows:

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

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

The words "shall" and "must" are mandatory, the word "may" is permissive.

"Accessory" means subordinate and incidental to a principal use or structure on the same lot.

"Accessory building" means a building that is subordinate and incidental to the principal building on the lot. An accessory building is typically a storage shed, workshop, or garage; but is not used as a dwelling unit. The floor area of any accessory building shall not be greater than the floor area of the principal building on the lot.

"Apartment" means ~~one or more structures containing two or more dwelling units each, located on one lot.~~ a room or a group of related rooms, among similar sets in one building, designed for use as a dwelling.

"Blight" means a condition of property or the uses of property within the municipal limits of the city that are detrimental to the physical, social, and/or economic well-being of the community.

"City Block" means ~~any territory smaller than five acres in size.~~ an area in a City surrounded by streets.

"Boarding or rooming house" means a dwelling unit containing up to and including five guest rooms where lodging is provided, with or without meals, for compensation.

"Buffer Landscaping" means areas of landscaping that serves as or is a part of a buffer zone.

"Buffer Wall" means a stone, concrete, or masonry wall that is located on or near the property line between non residential zoned and residential property, is a part of a buffer zone and is intended to provide a buffer from an adjacent property.

"Buffer Zone" means a strip of property located between two land uses, where property lines abut, and intended to provide a buffer from an adjacent property.

"Earth Berm" means an earthen mound, natural or manmade, that serves as a sound attenuation or a visual obstruction between two opposing land uses.

"Clinic" means a place where medical or dental care is furnished to persons on an out-patient basis by two or more doctors or dentists.

"Conditional use" means one of those uses enumerated as conditional uses in a given zone district. Such uses require individual approval and permit granted by the planning and zoning commission.

"Condominium" means multifamily one or more structure containing two or more dwelling units each that are sold to and held under individual ownership by the occupants, and which may or may not include ownership of the land upon which the dwelling units are situated. This includes townhouses, patiohouses, and other similar forms of individual ownership.

"Contiguous" means touching or separated only by an alley or street.

"District" means an area in which there is a specific land use designation.

"Drive-in restaurant" means an establishment where food or beverages are sold and may be consumed on the premises outside the structure primarily in automobiles.

"Duplex dwelling unit" means a dwelling having apartments with a separate entrance for two households.

"Dwelling unit" means one or more connected rooms and a single kitchen designed for and occupied by no more than one family for living and sleeping purposes.

"Family" means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or legal adoption, no such family shall contain more than three unrelated persons.

"Floor area" means the total gross area of all floors of a building.

"Floor area ratio" means the relationship of the floor area to the lot area computed by dividing the floor area by the lot area.

"Grade" means the average of the finished ground level at the center of all walls of a building.

Height, Building. "Building height" means the vertical distance from the finished lot grade to the highest point of the coping of a flat roof; the deck line of a mansard roof; or the average height between the plate and ridge of a gable, hip, or gambrel roof. Exceptions to the height requirements in this title include: silos, chimneys, cooling towers, water towers or tanks, flagpoles, antennas, spires, belfries, and other accessory objects usually required to be placed above the roof level and not intended for human occupancy.

"Home occupation" means an occupation conducted in a dwelling unit, provided that:

1. No person other than members of the family residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit for the home occupation shall be used in the conduct of the home occupation, nor more than six hundred (600) square feet of an accessory building.

3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation.
4. There shall be no sales in connection with such home occupation that would disrupt the residential nature of the district.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

"Lot" means any parcel of land platted and placed on record in accordance with laws and ordinances; a parcel described by metes and bounds and having frontage on a public right-of-way.

Lot, Area. "Lot area" means the aggregate lot area measured to property lines.

Lot, Corner. "Corner lot" means any lot located at the intersection of, and having frontage on, two or more streets.

"Lot depth" means the average distance between the front and rear lot lines measured in the mean direction of the side lot lines.

Lot, Double Frontage. "Double frontage lot" means any lot with frontage on two parallel or approximately parallel streets.

"Lot width" means the average distance between the side lot lines measured parallel to the front lot line.

Lot Line, Front. "Front lot line" means the boundary of a lot bordering on a street. For the purpose of determining setback requirements on corner lot and double frontage lots, all sides bordering on a street shall be considered the front.

Lot Line, Rear. "Rear lot line" means the lot boundary line which is opposite and most distant from and not coterminous with the front lot line.

Lot Line, Side. "Side lot line" means any boundary line not a front line or a rear lot line.

"Mobilehome" means a transportable structure, exceeding either eight body feet in width or thirty-two (32) body feet in length, built on a chassis and designed to be used as a moveable dwelling with or without a permanent foundation when connected to required utilities. Any mobilehome not constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be prohibited from installation or placement within the city of Belen.

"Mobilehome park" means a parcel of land on which space is leased for terms of twelve (12) months or less, or rented for occupancy for thirty (30) days or more by mobilehomes, and which contains permanent facilities for the use of mobilehome occupants.

"Modular unit" means a factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure. The term is intended to apply to major assemblies which must conform to the local building code, and

does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements which are to be incorporated in a structure at the building site.

"multi-section manufactured home" mean a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty six by twenty-four feet and constructed in accordance to the National Manufactured Housing Construction and Safety Standards Act of 1974.

"Nonconforming uses, lots, structures" means any building, structure, or portion thereof, or use of any building or land which does not conform to the regulations of this title and which lawfully existed on the effective date of those regulations with which it does not conform.

"Overlay zone" means a zone district placed over other zones such that special zoning requirements are imposed in addition to those of the underlying zone. Development within the overlay zone must conform to the requirements of both zones or the more restrictive of the two zones.

"Permanent zone" means a zone district which is established by ordinance.

"Premises" means any lot or combination of contiguous lots held in single ownership, together with all development thereon.

"Recreational vehicle," "travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, and not permanently connected to utilities.

"Setback" means the required distance between every building or structure and any lot line on the lot on which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure, except as otherwise provided in this title. Structures exempt from setback regulations include walls, fences, signs, satellite dish antennas, and public utility poles and lines.

Setback, Front. "Front setback" means an open area extending across the full width of a lot, the depth of which is the shortest distance between the front lot line and a building or structure located on said lot.

Setback, Rear. "Rear setback" means an open area extending across the full width of a lot, the depth of which is the shortest distance between the rear lot line and a building or structure located on said lot.

Setback, Side. "Side setback" means an open area not included in any front or rear setbacks of a lot and measured in width by the shortest distance between a side lot line and a building or structure located on said lot.

"Spot zoning" means assigning a lot, a parcel, or several lots or parcels a zoning classification inconsistent with that of the zone district in which it is located, with the effect of conferring special benefits or privileges upon particular property owners, or bringing about a detriment to the general welfare of the surrounding neighborhood.

"Structure" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobilehomes, walls, fences, billboards, and poster panels, but exclude sidewalks, driveways and uncovered patios.

"Temporary zone" means a zone assigned to all territories annexed to the city of Belen which shall be effective from the date the annexation is effective until the date the city of Belen establishes a permanent zone by ordinance.

"Travel trailer court or campground" means any lot, tract or parcel of land licensed and used or offered for use in whole or in part, for the parking of occupied travel trailers, pick-up campers, converted buses, recreational vehicles, tent trailers, tents or similar devices used for temporary portable housing and used solely for living and/or sleeping purposes.

"Use" means the purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

"Variance" means a relaxation of the terms of this title where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this title would result in unnecessary and undue hardship. As used in this title, a variance may be authorized only for area, height, dimension, distance, setback, off-street parking, and off-street loading requirements.

"Zero lot line development" means a development approach in which a building is sited on one or both of the side lot lines with an appropriate exemption from side setback requirements. The intent is to allow more flexibility in site design, and to increase the overall density of a small lot subdivision without sacrificing open space. Zero lot line developments may include single-family detached dwelling units with one wall of the building on a side property line, and multiple dwelling units with common walls placed along side property lines.

(Ord. 2007-14 § 1; Ord. 2007-13 § 1; Ord. 2006-07; Ord. 2001-04 § 4; Ord. 97-18 § 2 (part), 1997; Ord. 1990-4 § A; Ord. 1982-11 § 4; Ord. 370 § 4, 1975)

17.06 - NIGHT SKY PROTECTION

Sections:

17.06.010 Short Title

17.06.020 Purpose

17.06.030 Definitions

17.06.040 Shielding of Outdoor Light Fixtures

17.06.050 Nonconforming Light fixtures

17.06.060 Use of Mercury Vapor Lighting

17.06.070 Exemptions

17.06.080 Construction Industries Division Duties

17.06.090 Cost of Replacement/Recovery

17.06.100 Violation/Penalty

17.06.110 Enforcement

17.06.010 Short Title

This act [74-12-1 to 74-12-10 NMSA 1978] may be cited as the "Night Sky Protection Act".

17.06.020 Purpose

The purpose of the Night Sky Protection Act [74-12-1 to 74-12-10 NMSA 1978] is to regulate outdoor night lighting fixtures to preserve and enhance the state's dark sky while promoting safety, conserving energy and preserving the environment for astronomy.

17.06.030 Definitions

As used in the Night Sky Protection Act [74-12-0 to 74-12-10 NMSA 1978]:

“Outdoor lighting fixture” means an outdoor artificial illuminating device, whether permanent or portable, used for illumination or advertisement, including searchlights, spotlights and floodlights, whether for architectural lighting, parking lot lighting, landscape lighting, billboards or street lighting.

“Shielded” means a fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

17.06.040 Shielding of outdoor light fixtures

All outdoor lighting fixtures installed after January 1, 2000 shall be shielded, except incandescent fixtures of one hundred fifty watts or less and other sources of seventy watts or less.

17.06.050 Nonconforming light fixtures

A. In addition to other exemptions provided in the Night Sky Protection Act [74-12-0 to 74-12-10 NMSA 1978], an outdoor lighting fixture not meeting these provisions shall be allowed, if the fixture is extinguished by an automatic shutoff device between the hours of 11:00 p.m. and sunrise.

B. No outdoor recreational facility, whether public or private, shall be illuminated after 11:00 p.m. except for a national or international tournament or to conclude any recreational or sporting event or other activity conducted, which is in progress prior to 11:00 p.m. at a ballpark, outdoor amphitheater, arena or similar facility.

17.06.060 Use of mercury vapor lighting fixtures

No new mercury vapor outdoor lighting fixtures shall be sold or installed after January 1, 2000.

17.06.070 Exemptions

A. The following are exempt from the requirement of the Night Sky Protection Act [74-12-1 to 74-12-10 NMSA 1978]:

(1) Outdoor lighting fixtures on advertisement signs on interstates and federal primary highways.

(2) Outdoor lighting fixtures existing and legally installed prior to the effective date of the Night Sky Protection Act; however, when existing lighting fixtures become unrepairable, their replacement are subject to all the provisions of the Night Sky Protection Act.

(3) Navigational lighting systems at airport and other lighting necessary for aircraft safety.

(4) Outdoor lighting fixtures that are necessary for worker safety at farms, ranches, dairies, feedlots or industrial, mining or oil and gas facilities.

B. The provisions of the Night Sky Protection Act are cumulative and supplemental and shall not apply within any county or municipality that, by ordinance or resolution, has adopted provisions restricting light pollution that are equal to or more stringent than the provisions of the Night Sky Protection Act.

17.06.080 Construction Industries Division duties

The Construction Industries Division of the Regulation and Licensing Department shall review the outdoor lighting provision in the Uniform Building Codes used in New Mexico and make recommendations for appropriate changes to comply with the provisions of the Night Sky Protection Act and shall permit and inspect, to the standards set forth in the Night Sky Protection Act, all construction of and on state-owned building that is subject to permit and inspections under the Construction Industries Licensing Act [60-13-1 NMSA 1978]

17.06.090 Costs of replacement/recovery

If public utilities are required pursuant to the provision of the Night Sky Protection Act [74-12-1 to 74-12-10 NMSA 1978] or by local government ordinances to accelerate replacement of lighting fixtures, the cost of such replacement shall be included in rates approved by the Public Regulation Commission.

17.06.100 Violations/penalty.

Any person, firm or corporation violating the provisions of the Night Sky Protection Act [74-12-1 to 74-12-10 NMSA 1978] shall be punished as follows:

- A. For a first offense, the offender may be issued a warning
- B. For a second offense or offense that continues for thirty (30) days from the date of the warning, twenty-five (\$25.00) dollars minus the replacement cost for each offending fixture.

17.06.110 Enforcement

In order to promote the purposes of the Night Sky Protection Act and to provide uniform minimum outdoor lighting standards throughout the state, the Construction Industries Division of the Regulation and Licensing Department shall enforce the Night Sky Protection Act as it pertains to public building and subject to permit and inspection under the Construction Industries Licensing Act and each political subdivision of the state shall fully enforce the provisions of the Night Sky Protection Act.

Night Sky Protection Act [74-12-1 to 74-12-10 NMSA 1978]

Chapter 17.08 - ZONE DISTRICTS ESTABLISHED

Sections:

[Chapter 17.08.010 – Zone district boundaries](#)

[Chapter 17.08.020 – Zone district regulations](#)

17.08.010 - Zone district boundaries.

- A. In order to carry out the provisions of this title, the city of Belen is divided into zone districts, as named and described in the following sections. The regulations prescribed in this title shall apply within the corporate limits of the city of Belen.
- B. The boundaries of said zone districts are established as shown on the Belen zoning atlas which shall be made a part of this title as if fully described herein. The official Belen zoning atlas shall consist of maps at a scale of one inch equals two hundred (200) feet.
- C. When due to the scale, lack of detail or illegibility of the official Belen zoning atlas, there is any uncertainty, contradiction or conflict as to the intended location of any zone district boundaries shown thereon, interpretation concerning the exact location of zone district boundary lines shall be determined by the planning and zoning commission upon a written request.
- D. Abutting zone districts along frontage on a public right-of-way shall automatically extend to the center line upon vacation from public use of said right-of-way.

(Ord. 370 § 5, 1975)

17.08.020 - Zone district regulations.

For the purposes of this title, the following zone districts are established: A-R agricultural/residential; R-1 single-family residential; R-1A single-family mixed; R-2 multifamily residential; R-2A High Density Residential; R-3 Small Lot Residential; R-4 Medium Residential; C-R commercial/residential; B-A Becker Ave Zone; C-1 general commercial; C-2 Mixed Use ; M-C manufacturing/ commercial; M-1 industrial and business park; SU-1 special use zone. Uses permitted within each zone district shall be as indicated by the Table of Allowable Land Uses in this title. A use that is not permitted in a particular zone district shall not be considered an accessory use in that zone district. The general requirements of each zone district are as provided in the following sections. **All Zone Districts shall comply with [Chapter 17.06](#) Night Sky Protection of the Municipal Code**

(Ord. 370 § 6, 1975)

Chapter 17.12 - A-R AGRICULTURAL/ RESIDENTIAL

Sections:

[Chapter 17.12.010 – Intent](#)

[Chapter 17.12.020 – Accessory uses](#)

[Chapter 17.030 – Supplementary regulations](#)

17.12.010 - Intent.

The purpose of this zone is to provide for agricultural and related activities, and low density residential uses that are conducive to a rural atmosphere and do not attract large numbers of people. Residential density shall not exceed one single-family dwelling unit per acre.

(Ord. 370 § 7(A), 1975)

17.12.020 - Accessory uses.

- A. Buildings or structures customarily incident to uses allowed in this zone district.
- B. Stands for the display and sale of agricultural products.
- C. Storage of a boat, camper, trailer, or other recreational vehicle as long as such boat, camper, trailer, or vehicle is not used as a dwelling or additional living quarters and is not connected to utilities. The boat, camper, trailer, or vehicle must be stored on private property.
- D. Home occupations are permitted only to the extent authorized by the definitions in this title.
- E. Fences or walls not exceeding six feet in height in those areas within the rear or side setbacks of a lot, and not exceeding four feet in height for a non-solid fence in those areas within the front setback of a lot and not exceeding three feet in height for a wall or solid fence in those areas within the front setback of a lot.

(Ord. 382 § 2 (part), 1979; Ord. 370 § 7(B), 1975)

17.12.030 - Supplementary regulations.

- A. Height. No building or structure shall exceed thirty-five (35) feet except as otherwise provided in this title.
- B. Setback.

1. Front, twenty (20) feet;
 2. Rear, fifteen (15) feet:
 - a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than ten feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with [Chapter 15.32](#) Drainage Regulations of the municipal code and maintain any and all public utility easements,
 - b. An accessory building used as a garage for off-street parking with access to an alley shall maintain a setback of at least five feet from the alley;
 3. Side, five feet on each side.
- C. Off-Street Parking. Provided in [Chapter 17.56](#) of this title.
- D. Off-Street Loading. Provided in [Chapter 17.56](#) of this title.
- (Ord. 2007-13 § 2 (part); Ord. 97-18 § 2 (part), 1997; Ord. 370 § 7(C), 1975)

Chapter 17.16 - R-1 SINGLE-FAMILY RESIDENTIAL

Sections:

[Chapter 17.16.010 – Intent](#)

[Chapter 17.16.020 – Accessory uses](#)

[Chapter 17.16.030 – Supplementary regulations](#)

17.16.010 - Intent.

The purpose of this zone is to allow conventional, on-site constructed, single-family dwelling units, including **multi-section manufactured homes [3-21A NMSA 1978]**, and those uses which are both compatible with and convenient to the residents of such a neighborhood. Density shall be limited to one dwelling unit per lot. Land uses such as churches, schools, and parks are allowed.

(Ord. 370 § 8(A), 1975)

17.16.020 - Accessory uses.

- A. Buildings or structures customarily incident to uses in this zone district.
- B. Storage of a boat, camper, trailer, or other recreational vehicle as long as such boat, camper, trailer, or vehicle is not used as a dwelling or additional living quarters and is not connected to utilities. The boat, camper, trailer or vehicle must be stored in a rear or side yard.
- C. Home occupations are permitted only to the extent authorized by the definitions in this title.
- D. Fences or walls not exceeding six feet in height in those areas within the rear or side setbacks of a lot, and not exceeding four feet in height for a non-solid fence in those areas within the front setback of a lot and not exceeding three feet in height for a wall or solid fence in those areas within the front setback of a lot.

(Ord. 382 § 2 (part), 1979; Ord. 370 § 8(B), 1975)

17.16.030 - Supplementary regulations.

- A. Area. Each lot shall have a minimum ground area of six thousand (6,000) square feet and a minimum width of sixty (60) feet.
- B. Setback.
 - 1. Front, twenty (20) feet;
 - 2. Rear, fifteen (15) feet:
 - a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than ten feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with [Chapter 15.32](#) Drainage Regulations of the municipal code and maintain any and all public utility easements,
 - b. An accessory building used as a garage for off-street parking with access to an alley shall maintain a setback of at least five feet from the alley;
 - 3. Side, five feet on each side.
- C. Height. No building or structure shall exceed thirty-five (35) feet except as otherwise provided in this title.
- D. Off-Street Parking. Provided in [Chapter 17.56](#) of this title.

(Ord. 2007-13 § 2 (part); Ord. 2001-04 § 3; Ord. 1997-22 (part), 1997; Ord. 97-18 § 2 (part), 1997; Ord. 370 § 8(C), 1975)

Chapter 17.20 - R-1A SINGLE-FAMILY MIXED

Sections:

[17.20.010 – Intent](#)

[17.20.020 – Accessory uses](#)

[17.20.030 – Supplementary regulations](#)

17.20.010 - Intent.

The purpose of this zone is to provide for a mixture of detached, single-family housing types. The dwelling units in this zone district may include mobilehomes, modular housing units, and conventionally constructed homes. Density shall be limited to one dwelling unit per lot. Normal accessory uses are allowed.

(Ord. 370 § 9(A), 1975)

17.20.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-1 zone district.

(Ord. 382 § 2 (part), 1979; Ord. 370 § 9(B), 1975)

17.20.030 - Supplementary regulations.

All supplementary regulations in this zone shall be the same as those listed in the R-1 zone district.

(Ord. 1997-22 (part), 1997: Ord. 370 § 9(C), 1975)

Chapter 17.24 - R-2 MULTIFAMILY RESIDENTIAL

Sections:

[17.24.010 – Intent](#)

[17.24.020 – Accessory uses](#)

[17.24.030 – Supplementary regulations](#)

[17.24.040 – Fees](#)

17.24.010 - Intent.

The purpose of this zone is to allow for a medium density residential district excluding uses which are not compatible with and convenient to the residents of such a district. Offices and certain nonresidential uses which are of particular convenience to the residents of this zone are allowed. Apartments, duplex dwelling units, condominiums, and boarding houses are allowed in this zone.

(Ord. 370 § 10(A), 1975)

17.24.020 - Accessory uses.

- A. Buildings or structures customarily incident to uses in this zone district.
- B. Home occupations are permitted only to the extent authorized by the definitions in this title.
- C. Fences or walls not exceeding six feet in height in those areas within the rear or side setbacks of a lot, and not exceeding four feet in height for a non-solid fence in those areas within the front setback of a lot and not exceeding three feet in height for a wall or solid fence in those areas within the front setback of a lot.

(Ord. 382 § 2 (part), 1979; Ord. 370 § 10(B), 1975)

17.24.030 - Supplementary regulations.

- A. Area. Each lot shall have a minimum ground area of seven thousand (7,000) square feet and a minimum width of seventy (70) feet.
- B. Floor area ratio, 1.0.
- C. Setback.
 - 1. Front, twenty (20) feet;
 - 2. Rear, fifteen (15) feet:
 - a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than ten feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with [Chapter 15.32](#) Drainage Regulations of the municipal code and maintain any and all public utility easements,
 - b. An accessory building used as a garage for off-street parking with access to an alley shall maintain a setback of at least five feet from the alley;

3. Side, five feet on each side.
- D. Height. No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.
- E. Off-Street Parking. Provided in [Chapter 17.56](#) of this title.
- F. Off-Street Loading. Provided in [Chapter 17.56](#) of this title.
- G. Paved off-street parking is required for structures containing three or more dwelling units, and shall be constructed using standard curbing and pavement design specifications subject to review and approval by the city engineer.
- H. Landscaping is required on all multifamily residential lots to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible. A minimum of ten percent of total square footage of the lot area shall be devoted to landscaping. Landscaping ~~will~~ **may** consist of a combination of grass, shrubs, gravel and trees, developer will provide irrigation system if necessary. **Xeriscaping is encouraged.**
- I. Area lighting shall be provided in the development for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
- J. In the event a development is being proposed next to an irrigation ditch, the developer shall construct a six foot tall chain link fence or a fence of similar construction along the property line which borders said irrigation ditch. Irrigation ditch shall be defined as a lateral or canal and shall not be meant to include a bar ditch or small ditch for individual use.
- K. A storm drainage management plan is required for all multifamily residential developments. It shall be in compliance with ~~city~~ **the state** drainage regulations and shall be subject to review and approval by the city engineer.
- L. Trash bins shall be provided in the amount the sanitation department feels necessary, and shall be three sided with block or wood, and shall be six feet in height. The placement of trash bin shall be approved by sanitation department for proper pickup.

(Ord. 2007-13 § 2 (part); Ord. 97-18 § 2 (part), 1997; Ord. 1996-23 (part); Ord. 370 § 10(C), 1975)

17.24.040 - Fees.

Located in Appendix A of the Municipal Code.

- ~~A. For consideration of a variance application, one hundred fifty dollars (\$150.00);~~
- ~~B. For consideration of a conditional use permit, one hundred fifty dollars (\$150.00);~~
- ~~C. For consideration of zone changes and amendments to this chapter, two hundred fifty dollars (\$250.00);~~
- ~~D. For consideration of an appeal to the city council under the provisions of this chapter, one hundred dollars (\$100.00);~~
- ~~E. For consideration of mobile/ manufactured homes on a permanent foundation, an installation permit fee of two hundred fifty dollars (\$250.00);~~
- ~~F. For consideration of mobile home park rental spaces for mobile homes, recreational vehicles and camping trailers, an installation permit fee of twenty five dollars (\$25.00);~~

~~(Ord. 2002-12; Ord. 2002-09)~~

Chapter 17.25 - R-2A HIGH DENSITY RESIDENTIAL

Sections:

[17.25.010 – Intent](#)

[17.25.020 – Accessory uses](#)

[17.25.030 – Supplementary regulations](#)

17.25.010 - Intent.

The purpose of this zone is to allow for a high density residential district. Offices and certain nonresidential uses which are of particular convenience to the residents of this zone are allowed. Single-family detached, single-family attached, apartments, condominiums, duplex dwelling units, and boarding houses are allowed in this zone.

(Ord. 2006-09 (part))

17.25.020 - Accessory uses.

- A. Buildings or structures customarily incidental to uses allowed in this zone district.
- B. Home occupations are permitted only to the extent authorized by the city of Belen's zoning ordinance.
- C. Fences or walls not exceeding six feet in height may occur within the rear or side yard setbacks of the lot and not exceed four feet in height for a non-solid fence or three feet for a solid fence within the front yard setback of a lot.

Additional permitted and accessory uses are listed on the table of allowable land use.

(Ord. 2006-09 (part))

17.25.030 - Supplementary regulations.

- A. Area. Each single-family lot shall have a minimum ground area of four thousand (4,000) square feet and a minimum width of forty (40) feet.
- B. Floor area ratio: 1.0.
- C. Setback.
 - 1. Front: ten feet;
 - 2. Rear: fifteen (15) feet;
 - 3. Side: five feet;
 - 4. Garage: twenty (20) feet for front facing;
 - 5. Garage: ten feet for side turned;
 - 6. Alley: five feet for garage.
- D. Height. No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.

- E. Off-Street Parking. Multifamily:
Two spaces per two bedroom unit;
One and one-half spaces per one bedroom unit;
One space per studio/efficiency unit.
- F. Off-Street Loading. Provided in [Chapter 17.56](#) of this title.
- G. Paved off-street parking is required for structures containing three or more dwelling units, and shall be constructed using standard curbing and pavement design specifications subject to review and approval by the city engineer.
- H. Landscaping is required on all multifamily residential lots to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible. A minimum of ten percent of total square footage of the lot area shall be devoted to landscaping.
Landscaping **may will** consist of a combination of grass, shrubs, gravel and trees, developer will provide irrigation system if necessary. **Xeriscaping is encouraged.**
- I. Area lighting shall be provided in the development for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
- J. In the event a development is being proposed next to an irrigation ditch, the developer shall construct a six foot tall chain link fence or a fence of similar construction along the property line which borders said irrigation ditch. Irrigation ditch shall not be meant to include a bar ditch or small ditch for individual use.
- K. A storm drainage management plan is required for all multifamily residential developments. It shall be in compliance with **the state city** drainage regulations and shall be subject to review and approval by the city engineer.
- L. Trash bins shall be provided in the amount the sanitation department feels necessary, and shall be three sided with block or wood, and shall be six feet in height. The placement of trash bin shall be approved by sanitation department for proper pickup.

(Ord. 2006-09 (part))

Chapter 17.26 - R-3 SMALL LOT RESIDENTIAL

Sections:

[17.26.010 – Intent](#)

[17.26.020 – Accessory uses](#)

[17.26.030 – Supplementary regulations](#)

17.26.010 - Intent.

The purpose of this zone is to allow for a medium density residential district with small lots for multiple or single-family detached dwelling units in order to provide affordable housing of conventional construction. Townhouses, **duplex dwelling units**, condominiums, and zero lot line developments utilizing building lines or common walls along property lines are allowable in this zone. There shall be no more than one dwelling unit per lot and not more than four dwelling

units shall be in a building. Nonresidential uses should be minimal or excluded from this zone district.

(Ord. 2001-04 § 1 (part))

17.26.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-2 zone district.

(Ord. 2001-04 § 1 (part))

17.26.030 - Supplementary regulations.

- A. Area. For single-family detached dwelling units, each lot shall have a minimum ground area of three thousand five hundred (3,500) square feet and a minimum width of thirty-five (35) feet. For multiple dwelling units such as townhouses, each lot shall have a minimum ground area of three thousand (3,000) square feet and a minimum width of twenty-five (25) feet.
- B. Floor area ratio: 1.0.
- C. Setback.
 - 1. Front: fifteen (15) feet;
 - 2. Rear: ten feet:
 - a. Accessory buildings may be located anywhere within the rear setback area provided that the accessory building is less than two hundred (200) square feet in floor area and there is a separation of no less than ten feet between the accessory building and any other building on the lot or adjacent lots. Such building shall comply with [Chapter 15.32](#) Drainage Regulations of the municipal code and maintain any and all public utility easements,
 - b. An accessory building used as a garage for off-street parking with access to an alley shall maintain a setback of at least five feet from the alley;
 - 3. There shall be no side setback with the following exceptions:
 - a. Ten-foot side setback on the street side of corner lots,
 - b. Ten-foot setback from the side lot line that separates the R-3 zone from another zone,
 - c. There shall be a separation of no less than ten feet between single-family detached dwelling units and no less than fifteen (15) feet between buildings of multiple dwelling units.
- D. Height. No building or structure shall exceed thirty-five (35) feet except as otherwise provided in this title.
- E. Off-Street Parking. Provided in [Chapter 17.56](#) of this title.
- F. Off-Street Loading. Provided in [Chapter 17.56](#) of this title.
- G. Townhouse developments shall not exceed four attached dwelling units per structure, each divided by common walls and each having a separate entrance at ground level.

(Ord. 2007-13 § 2 (part); Ord. 2001-04 § 1 (part))

Chapter 17.27 - R-4 MEDIUM RESIDENTIAL

Sections:

[17.27.010 – Intent](#)

[17.27.020 – Accessory uses](#)

[17.27.030 – Supplementary regulations](#)

17.27.010 - Intent.

The purpose of this zone is to allow for a variety of single-family detached and single-family attached (duplex **dwelling** units) lot sizes. This zone allows for a traditional compact residential neighborhood and those uses that are both compatible with and convenient to the residents of such a district. Offices and certain nonresidential uses which are of particular convenience to the residents of this zone are allowed.

(Ord. 2006-09 (part))

17.27.020 - Accessory uses.

- A. Buildings or structures customarily incidental to uses allowed in this zone district.
- B. Home occupations are permitted only to the extent authorized by the city of Belen's zoning ordinance.
- C. Fences or walls not exceeding six feet in height may occur within the rear or side yard setbacks of the lot and not exceed four feet in height for a non-solid fence or three feet for a solid fence within the front yard setback of a lot.

(Ord. 2006-09 (part))

17.27.030 - Supplementary regulations.

- A. Area. Each lot shall have a minimum ground area of four thousand (4,000) square feet and a minimum width of forty (40) feet.
- B. Floor area ratio: 1.0.
- C. Setback.
 - 1. Front: ten feet;
 - 2. Rear: fifteen (15) feet;
 - 3. Side: five feet;
 - 4. Garage: twenty (20) feet for front facing;
 - 5. Garage: ten feet for side turned;
 - 6. Alley: five feet for garage.
- D. Height. No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.
- E. Off-Street Parking. Provided in [Chapter 17.56](#) of this title.
- F. Off-Street Loading. Provided in [Chapter 17.56](#) of this title.

- G. Paved off-street parking is required for structures containing three or more dwelling units, and shall be constructed using standard curbing and pavement design specifications subject to review and approval by the city engineer.
- H. Landscaping is required on all multifamily residential lots to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible. A minimum of ten percent of total square footage of the lot area shall be devoted to landscaping.
Landscaping ~~may will~~ consist of a combination of grass, shrubs, grave and trees, developer will provide irrigation system if necessary. **Xeriscaping is encouraged.**
- I. Area lighting shall be provided in the development for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
- J. In the event a development is being proposed next to an irrigation ditch, the developer shall construct a six foot tall chain link fence or a fence of similar construction along the property line which borders said irrigation ditch. Irrigation ditch shall not be meant to include a bar ditch or small ditch for individual use.
- K. A storm drainage management plan is required for all multifamily residential developments. It shall be in compliance with **the State city** drainage regulations and shall be subject to review and approval by the city engineer.
- L. Trash bins shall be provided in the amount the sanitation department feels necessary, and shall be three sided with block or wood, and shall be six feet in height. The placement of trash bin shall be approved by sanitation department for proper pickup.

(Ord. 2006-09 (part))

Chapter 17.28 - C-R COMMERCIAL/ RESIDENTIAL

Sections:

[17.27.010 – Intent](#)

[17.27.020 – Accessory uses](#)

[17.25.030 – Supplementary regulations](#)

17.28.010 - Intent.

The purpose of this zone is to permit a limited mixture of residential and retail commercial activities. This zone establishes and preserves areas for those commercial facilities which are **of service to and compatible with** ~~essentially useful in close proximity to~~ residential areas, while minimizing the undesirable impact of such commercial uses on the neighborhoods which they service. Any commercial establishment, other than a home occupation, located in this zone shall contain a total floor area no greater than four thousand (4,000) square feet.

(Ord. 370 § 11(A), 1975)

17.28.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-2 zone district.

(Ord. 382 § 2 (part), 1979; Ord. 370 § 11(B), 1975)

17.28.030 - Supplementary regulations.

All supplementary regulations in this zone shall be the same as those listed in the R-2 zone district, except that signs indicating a commercial or business establishment may not exceed forty (40) square feet per sign with a minimum width of two feet.

(Ord. 370 § 11(C), 1975)

Chapter 17.30 ~~BECKER AVENUE ZONE~~ HEART OF BELEN OVERLAY ZONE

Sections:

[17.30.010 – Intent](#)

[17.30.020 – General provisions](#)

[17.30.030 – Regulations](#)

[17.30.040 – Administrative procedures](#)

17.30.010 - Intent.

The purpose of this zone is to promote the revitalization of the historic ~~Becker Avenue~~ Heart of Belen Area and to maintain a special character of mixed-use development for the properties along the streets. This zone is also intended to provide a pedestrian-friendly atmosphere and a gathering place for the community. To the extent possible, historical and cultural elements of the properties along within the Heart of Belen Overlay Zone shall be preserved and enhanced.

(Ord. 2005-08 § 1 (part))

17.30.020 - General provisions.

- A. The ~~Becker Avenue Zone~~ Heart of Belen Overlay Zone shall be delineated on the Belen Zone Atlas. All properties that have frontage along Becker Avenue, Dalies Ave., Reinken Ave. and Main St. from Main St. to First St. shall be included in the ~~Becker Avenue Zone~~ Heart of Belen Overlay Zone.
- B. The ~~Becker Avenue Zone~~ Heart of Belen Overlay Zone shall be administered as an additional zone district with special requirements. Any development within the ~~Becker Avenue Zone~~ Heart of Belen Overlay Zone shall be subject to the administrative procedures and regulations provided in this section.

(Ord. 2005-08 § 1 (part))

17.30.030 - Regulations.

- A. Building Height. No building or structure shall exceed forty-five (45) feet in height.
- B. Building Design. In order to preserve and enhance the special character within the Becker Avenue Zone, buildings shall be designed using the following guidelines:
 1. Painting or decorating buildings with bold patterns or large graphics, or using buildings as signs shall be reviewed by the Planning & Zoning Commission. is prohibited.
 2. Thin skin "curtain wall" buildings including aluminum siding, metal panels, and mirrored or otherwise dominating glass, are prohibited.

3. In order to continue a visual pattern of historic architectural elements reflected through brick building construction, at least fifty (50) percent of the total façade on all new or reconstructed buildings fronting streets within the Heart of Belen Overlay Zone Becker Avenue shall be composed of brick.
 4. Exterior mounted mechanical and electrical equipment, including solar hardware and satellite dish antennas, shall be architecturally screened.
- C. Signs. All signs in the Becker Avenue Heart of Belen Overlay Zone shall conform to sign regulations provided in Chapter 17.58 of the Belen Municipal Code.
- D. Pedestrian Walkways. A minimum of twelve (12) feet measured from the curb line into abutting properties shall be reserved and developed for pedestrian activity. There shall be no obstruction within a pedestrian walkway, which would impede pedestrian circulation. The minimum width of pedestrian walkways shall be six feet, to allow for wheelchair access.
- E. Off-Street Parking. The off-street parking requirements defined in Chapter 17.56 of the Belen Municipal Code may be reduced by a maximum of fifty (50) percent of the total number of spaces pertaining to the list of land uses in Section 17.56.010. The reduction of spaces required for land uses in the Becker Avenue Zone Heart of Belen Overlay Zone shall be subject to the administrative procedures provided in this chapter.
- F. Street Trees. Within five feet of the curb line of the Heart of Belen Overlay Zone Becker Avenue, trees shall be planted approximately every thirty (30) linear feet of street frontage. General policies for street trees are as follows:
1. Whenever possible, street trees shall be placed between the curb and pedestrian walkways.
 2. Suitable street trees for the Heart of Belen Overlay Zone Becker Avenue are mostly hardwood, non-fruit-bearing, deciduous trees. Low water consumption and non allergenic trees are preferable.
 3. Adequate vertical clearance below street tree branches shall be maintained at no less than eight feet over pedestrian walkways and nine feet over streets.
- G. Area Lighting. The lighting of buildings and parking lots within the Heart of Belen Overlay Zone Becker Avenue Zone shall conform to the following guidelines:
1. The exterior lighting of any buildings, structures and surrounding grounds shall provide illumination for safety purposes, and shall be placed and screened such that it does not shine directly or reflect into any adjoining residential properties or streets.
 2. Fixtures used in exterior lighting shall be selected for functional and aesthetic value and shall not contain fluorescent lamps.
 3. Parking lot lighting shall provide for adequate security but must be shielded to prevent light from shining directly onto abutting residential lots.
- H. Drainage. In areas where a centralized stormwater collection system is not available, on-site stormwater retention shall be directed to the back portion of the lot.

(Ord. 2005-08 § 1 (part))

17.30.040 - Administrative procedures.

- A. Site Plan Required. All development, redevelopment, and major improvements to property within the Heart of Belen Overlay Becker Avenue Zone shall be constructed in accordance

with a site plan which shall be reviewed and accepted by the zoning enforcement officer to establish compliance with the regulations provided herein. The site plan shall contain the following:

1. A plat or property map plan showing the location, dimensions, height, and setback of all buildings and structures on the development site;
 2. Location and description of all signs, lighting, parking and loading areas, traffic access and circulation routes, and pedestrian areas;
 3. Preliminary sketch drawings or elevations of proposed buildings;
 4. A landscaping plan showing location and type of street trees and other proposed and existing vegetation of the development site.
- B. Plan Review and Acceptance. In order to obtain acceptance for any proposed development within the **Heart of Belen Overlay Becker Avenue Zone**, the required site plan shall be submitted to the zoning enforcement officer who shall determine compliance with the provisions and intent of the **Heart of Belen Overlay Becker Avenue Zone**. A written decision of acceptance or non-acceptance shall be rendered by the zoning enforcement officer within thirty (30) days following receipt of the required site plan. Such written decision shall provide any special conditions of acceptance, or reasons for non-acceptance if applicable. Appeal of any decision of the zoning enforcement officer may be carried out through the provisions established by the appeal process in the comprehensive zoning ordinance of the city of Belen.

(Ord. 2005-08 § 1 (part))

17.32 C-1 GENERAL COMMERCIAL

Sections:

~~17.32.010 – Intent~~

~~17.32.020 – Accessory uses~~

~~17.32.030 – Supplementary regulations~~

~~17.32.010 – Intent.~~

~~The purpose of this zone is to provide for those commercial uses which serve the community on a day to day basis such as retailing, financial, and personal services.~~

~~(Ord. 370 § 12(A), 1975)~~

~~17.32.020 – Accessory uses.~~

~~All accessory uses in this zone shall be the same as those listed in the R-2 zone district.~~

~~(Ord. 382 § 2 (part), 1970; Ord. 370 § 12(B), 1975)~~

~~17.32.030 – Supplementary regulations.~~

~~A. Area. Any lot under a residential use shall have a minimum ground area of seven thousand (7,000) square feet and a minimum width of seventy (70) feet.~~

~~B. Setback. Any lot under a residential use shall have the same setback requirements as those prescribed in the R-2 zone district. Any lot in commercial use shall have a front setback of six feet.~~

~~C. Height. No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.~~

~~D. Off Street Parking. Provided in [Chapter 17.58](#) of this title.~~

~~(Ord. 1996-23 (part); Ord. 370 § 12(C), 1975)~~

[17.32.010 – Intent](#)

[17.32.020 – Accessory uses](#)

[17.32.030 – Supplementary regulations](#)

17.33.010 - Intent.

The purpose of this zone is to permit a mixture of housing, office, retail, entertainment, medical, and civic uses

(Ord. 2006-09 (part))

- Encourage a greater intensity of development in order to attract the people and commerce necessary to create a vibrant and diverse urban center.
- Encourage a blending of residential, civic, commercial and office uses in close proximity to each other with active commercial and retail uses along arterial and collector street frontages, and encouraging residential uses above the ground floor or behind a commercial building that fronts the street.
- Encourage a mixture of service and employment uses so that residents will have the opportunity to work as well as shop and play within walking distance from their homes.
- Encourage planning, design and detailing that reflects the needs of pedestrians, establishes multi-modal circulation opportunities, and creates memorable civic spaces.
- Encourage the use of multi-modal transportation systems and reduce the amount of impervious surface.

17.33.020 - Accessory uses.

A. Buildings or structures customarily incidental to uses allowed in this zone district.

B. Home occupations are permitted only to the extent authorized by the city of Belen's zoning ordinance.

C. Fences or walls not exceeding six feet in height may occur within the rear or side yard setbacks of a residential lot and not exceed four feet in height for a non-solid fence or three feet for a solid fence within the front yard setback of a lot, unless buffering is required.

D. Accessory structures are not allowed in front or side yards facing a public street and shall not exceed two hundred (200) square feet in floor area.

E. Trash containers and trash compactors shall be at least 15 feet from the property line when adjacent to land planned or zoned for a single-family residential.

- Trash containers and trash compactors shall be screened from a public right-of-way by decorative wall or enclosure and shall be not less than two feet above the height of the trash container or compactor

F. Flag Poles – 25 feet from any property line, with a maximum height of 35 feet. Pole heights greater than 35 feet may be approved by a conditional use permit.

G. Crematory – must be 750 feet from residential area and community parks.

Additional permitted and accessory uses are listed on the revised table of allowable land use (see [Section 17.48.010](#)).

(Ord. 2006-09 (part))

17.33.030 - Supplementary regulations.

A. Setback. Minimum setbacks as measured from property line or right-of-way.

1. Mixed use front: zero feet;
2. Mixed use rear: fifteen (15) feet;
3. Mixed use side: zero feet.

B. Height. No building or structure shall exceed sixty-five (65) feet except as otherwise provided for in the city of Belen's zoning ordinance.

C. Off-Street Parking

Shall be Required as set forth in [Chapter 17.56](#) of this title, except for:

- street frontage for pedestrian connections and circulation. On site with multiple buildings, parking is allowed in front of or between buildings that are interior to the site.
- Application requests for a reduction in the number of required off-street parking spaces as the result of shared parking will be considered
- Shopping centers shall provide a minimum of four parking spaces per one thousand (1,000) square feet of floor area.

D. Loading. Loading shall be integrated within the site plan and wherever possible integrated within the building's architecture. Innovative loading solutions are to be encouraged.

(Ord. 2006-09 (part))

17.33.040 – DEVELOPMENT REGULATIONS

A) Consideration for approval

- 1) Plans should comply with the intent and requirements of a mix of land uses set forth herein and not be used for a single land use.
- 2) Plans must include residential and non-residential uses within or in close proximity to the district with shared access and adequate pedestrian linkages.

- 3) The total area of the proposed development must be a minimum of two acres, but may be smaller with an approved conditional use permit.
- 4) Plan may also include civic or community building, public utility and/or public spaces within the district.

B) Development review process

- 1) An applicant wishing to develop property zoned C-2 must submit a master plan and design and development guidelines for the mixed use development for a preliminary review .
- 2) Following preliminary review, the application will be subject to the review and approval of the Planning and Zoning Commission.
- 3) Upon approval, the master plan and accompanying documents will be used as the official guide for future development within the district.
- 4) Site development within the district will require the submission of a site development permit application. The site development permit application will be evaluated based on compliance with the approved master plan and guidelines.

B) Landscaping

Landscaping shall provide visual relief of the zoning district, with safe, comfortable and attractive spaces for pedestrians. Landscaping will be evaluated as part of the submittal process. Landscaping requirement for buffering shall be as established in the M-1 Zone.

C) Lighting

Lighting shall comply with the Night Sky Protection Act and be shielded and placed to direct the light away from adjacent properties.

Chapter 17.33 - C-2 MIXED USE

Sections:

~~17.33.010 – Intent~~

~~17.33.020 – Accessory uses~~

~~17.33.030 – Supplementary regulations~~

~~17.33.010 – Intent.~~

~~The purpose of this zone is to permit a mixture of housing, office, retail, entertainment, medical, and civic uses~~

~~(Ord. 2006-09 (part))~~

- ~~• Encourage a greater intensity of development in order to attract the people and commerce necessary to create a vibrant and diverse urban center.~~

- Encourage a blending of residential, civic, commercial and office uses in close proximity to each other with active commercial and retail uses along arterial and collector street frontages, and encouraging residential uses above the ground floor or behind a commercial building that fronts the street.
- Encourage a mixture of service and employment uses so that residents will have the opportunity to work as well as shop and play within walking distance from their homes.
- Encourage planning, design and detailing that reflects the needs of pedestrians, establishes multi-modal circulation opportunities, and creates memorable civic spaces.
- Encourage the use of multi-modal transportation systems and reduce the amount of impervious surface.

17.33.020 – Accessory uses.

- A. Buildings or structures customarily incidental to uses allowed in this zone district.
- B. Home occupations are permitted only to the extent authorized by the city of Belen's zoning ordinance.
- C. Fences or walls not exceeding six feet in height may occur within the rear or side yard setbacks of a residential lot and not exceed four feet in height for a non-solid fence or three feet for a solid fence within the front yard setback of a lot, unless buffering is required.
- D. Accessory structures are not allowed in front or side yards facing a public street and shall not exceed two hundred (200) square feet in floor area.
- E. Trash containers and trash compactors shall be at least 15 feet from the property line when adjacent to land planned or zoned for a single-family residential.
 - Trash containers and trash compactors shall be screened from a public right-of-way by decorative wall or enclosure and shall be not less than two feet above the height of the trash container or compactor.
- F. Flag Poles — 25 feet from any property line, with a maximum height of 35 feet. Pole heights greater than 35 feet may be approved by a conditional use permit.

Additional permitted and accessory uses are listed on the revised table of allowable land use (see [Section 17.48.010](#));
(Ord. 2008-09 (part))

17.33.030 – Supplementary regulations.

- A. Setback. Minimum setbacks as measured from property line or right of way.
 - 1. Mixed use front: zero feet;
 - 2. Mixed use rear: fifteen (15) feet;
 - 3. Mixed use side: zero feet.
- B. Height. No building or structure shall exceed sixty five (65) feet except as otherwise provided for in the city of Belen's zoning ordinance.

C. Off Street Parking

Shall be Required as set forth in ~~Chapter 17.56~~ of this title, except for:

- ~~street frontage for pedestrian connections and circulation. On site with multiple buildings, parking is allowed in front of or between buildings that are interior to the site.~~
- ~~Application requests for a reduction in the number of required off-street parking spaces as the result of shared parking will be considered~~
- ~~Shopping centers shall provide a minimum of four parking spaces per one thousand (1,000) square feet of floor area.~~

D. ~~Loading. Loading shall be integrated within the site plan and wherever possible integrated within the building's architecture. Innovative loading solutions are to be encouraged.~~

~~(Ord. 2006-09 (part))~~

17.33.040 – DEVELOPMENT REGULATIONS

A) Consideration for approval

- 5) ~~Plans should comply with the intent and requirements of a mix of land uses set forth herein and not be used for a single land use.~~
- 6) ~~Plans must include residential and non-residential uses within or in close proximity to the district with shared access and adequate pedestrian linkages.~~
- 7) ~~The total area of the proposed development must be a minimum of two acres, but may be smaller with an approved conditional use permit.~~
- 8) ~~Plan may also include civic or community building, public utility and/or public spaces within the district.~~

B) Development review process

- 5) ~~An applicant wishing to develop property zoned C-2 must submit a master plan and design and development guidelines for the mixed use development for a preliminary review.~~
- 6) ~~Following preliminary review, the application will be subject to the review and approval of the Planning and Zoning Commission.~~
- 7) ~~Upon approval, the master plan and accompanying documents will be used as the official guide for future development within the district.~~
- 8) ~~Site development within the district will require the submission of a site development permit application. The site development permit application will be evaluated based on compliance with the approved master plan and guidelines.~~

B) Landscaping

~~Landscaping shall provide visual relief of the zoning district, with safe, comfortable and attractive spaces for pedestrians. Landscaping will be evaluated as part of the submittal process. Landscaping requirement for buffering shall be as established in the M-1 Zone.~~

C) Lighting

Lighting shall comply with the Night Sky Protection Act and be shielded and placed to direct the light away from adjacent properties.

Sections:

[17.33.010 – Intent](#)

[17.33.020 – Accessory uses](#)

[17.33.030 – Supplementary regulations](#)

17.32.010 - Intent.

The purpose of this zone is to provide for those commercial uses which serve the community on a day-to-day basis such as retailing, financial, and personal services.

(Ord. 370 § 12(A), 1975)

17.32.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-2 zone district.

(Ord. 382 § 2 (part), 1979; Ord. 370 § 12(B), 1975)

17.32.030 - Supplementary regulations.

- A. Area. Any lot under a residential use shall have a minimum ground area of seven thousand (7,000) square feet and a minimum width of seventy (70) feet.
- B. Setback. Any lot under a residential use shall have the same setback requirements as those prescribed in the R-2 zone district. Any lot in commercial use shall have a front setback of six feet.
- C. Height. No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.
- D. Off-Street Parking. Provided in [Chapter 17.56](#) of this title.

(Ord. 1996-23 (part); Ord. 370 § 12(C), 1975)

Chapter 17.36 - MAIN STREET OVERLAY ZONE

Sections:

[17.36.010 – Intent](#)

[17.36.020 – General provisions](#)

[17.36.030 – Regulations](#)

[17.36.040 – Procedures](#)

17.36.010 - Intent.

The purpose of this zone is to promote and protect a special character and human scale of development along Main Street in the city of Belen. This zone is also intended to improve the safety and desirability of walking along Main Street.

(Ord. 2005-07 (part): Ord. 1990-4 § B (part))

17.36.020 - General provisions.

- A. This overlay zone shall apply to any lot within the city of Belen which is contiguous to Main Street, from the northerly boundary of the city to the Southerly boundary of the city.
- B. The Main Street Overlay Zone shall appear on the Belen Zone Atlas superimposed on other zones, and its regulations shall supplement those of the underlying zones.

(Ord. 2005-07 (part): Ord. 1990-4 § B(A))

17.36.030 - Regulations.

- A. **Setback.** A minimum setback of ten feet is required and shall be measured from any building on the premises to the lot line contiguous with Main Street. Varied setback on abutting lots is encouraged.
- B. **Building Height.** No building shall exceed forty-five (45) feet in height.
- C. **Building Design and Maintenance.** In order to minimize blight and to preserve the small town character within this overlay zone, buildings shall be designed and maintained using the following guidelines:
 - 1. Buildings shall be designed to appear more as an aggregation of smaller building blocks rather than a single large block or box.
 - 2. Exterior facade of buildings shall be constructed and maintained to exhibit earth tone materials. Brick, stone and/or painting to reflect brick and stone facade is encouraged. Painting or decorating buildings with bold patterns or large graphics, or using buildings as signs shall be reviewed by the Planning & Zoning Commission. ~~at the approval of the city.~~
 - 3. Thin-skin curtain wall buildings, including aluminum siding, metal panels, and mirrored or otherwise dominating glass, are prohibited.
 - 4. Exterior mounted mechanical and electrical equipment, including solar hardware and satellite dish antennas, shall be architecturally screened.
- D. **Signs.** As per the Municipal Code dealing with sign regulations.
- E. **Pedestrian Walkways.** A minimum of ten feet from the curb line into the abutting properties shall be reserved and developed for pedestrian activity. There shall be no obstruction within a pedestrian walkway which would impeded pedestrian circulation.
- F. **Off-Street Parking.** ~~To the extent possible, required~~ off-street parking shall be located behind buildings with access to Main Street. When parking areas are visible from Main Street, they shall be screened from view by vegetation, planters, or other similar means.
- G. **Street Trees.** Within ten feet of the curb line of Main Street, trees shall be planted approximately every thirty (30) linear feet of the street frontage. General policies for street trees are as follows:
 - 1. Wherever possible, street trees shall be placed behind the curb and sidewalk;

2. Suitable street trees are mostly hardwood, non-fruiting, deciduous trees;
 3. Adequate vertical clearance below street tree branches shall be maintained at no less than seven feet over pedestrian walkways and eight feet over streets;
 4. Maintenance and trimming of street trees and replacement of dead trees is the responsibility of the City of Belen. ~~abutting lot owner;~~
 5. Street trees shall be located so as to not interfere with the function for any underground utility lines.
- H. Area Lighting. The lighting of buildings and parking lots within this overlay zone shall conform to the following guidelines:
1. The exterior lighting of any buildings, structures and surrounding grounds shall provide illumination safety purposes, and shall be placed and screened such that it does not shine directly or reflect into any adjoining residential properties or streets;
 - ~~2. Fixtures used in exterior lighting shall be selected for functional and aesthetic value and shall not contain fluorescent lamps;~~
 3. Parking lot lighting shall not emit light beyond the development;
 4. Must conform with the Night Sky Protection Act on outdoor night lighting fixtures to preserve and enhance the state's dark sky while promoting safety, conserving energy and preserving the environment for astrological views.
- I. Drainage. As per the Municipal Code Drainage Regulations.
(Ord. 2007-14 § 2; Ord. 2005-07 (part); Ord. 1990-4 § B(B))

17.36.040 - Procedures.

- A. Plan Required. All development and improvements to property within the Main Street Overlay Zone shall be constructed in accordance with a site plan approved by the city. Such site plan shall include the following:
1. A plot plan showing the location, dimensions, height, and setback of all buildings and structures on the development site;
 2. Location and description of all signs, lighting, parking and loading areas, traffic access and circulation routes, and pedestrian areas;
 3. Preliminary sketch drawings or elevations of proposed buildings;
 4. A landscaping plan showing location and type of street trees and other proposed and existing vegetation on the development site.
- B. Plan Review and Approval. In order to obtain approval for any proposed development within the Main Street Overlay Zone, the required site plan shall be submitted to the planning and zoning officer which shall determine compliance with the provisions and intent of the Main Street Overlay Zone. An appeal of any decision by the zoning officer shall be carried out through the provisions established by the appeal process in the comprehensive zoning municipal code of the city of Belen.
(Ord. 2005-07 (part); Ord. 1990-4 § B(C))

Chapter 17.40 - M-C MANUFACTURING/ COMMERCIAL

Sections:

[17.40.010 – Intent](#)

[17.40.02 – Accessory uses](#)

[17.40.030 – Supplementary regulations](#)

17.40.010 - Intent.

The purpose of this zone is to allow for light industry, warehousing, heavy commercial, and wholesaling operations. The activities in this zone must be environmentally compatible to the community. Residential uses are not allowed.

(Ord. 370 § 13(A), 1975)

17.40.020 - Accessory uses.

Buildings or structures customarily incident to uses in this zone district are allowed.

(Ord. 370 § 13(B), 1975)

17.40.030 - Supplementary regulations.

A. Off-Street Parking. Provided in [Chapter 17.56](#) of this title.

B. Off-Street Loading. Provided in [Chapter 17.56](#) of this title.

(Ord. 370 § 13(C), 1975)

Chapter 17.41 – M-1 INDUSTRIAL AND BUSINESS PARK

Sections:

[17.41.010 Intent](#)

[17.41.020 Uses](#)

[17.41.030 Supplementary Regulations](#)

17.41.010 – Intent.

The purpose of this zone is to allow for heavy commercial and manufacturing uses which do not create danger and which do not create excessive offensive noise, vibration, smoke, dust, lint, odors, heat, or glare to an adjoining land use.

What constitutes and offensive noise, vibration, smoke, dust, lint, odors, heat, or glare shall be determined by an official Zoning Enforcement Officer or a City Police Officer

17.41.020 – Uses

Industrial and Business Park uses include but are not limited to the following:

- 1) All uses of the C-2, and M-C District; unless omitted in the Allowable Land Use Table. All regulations of the Allowable Land Use Table and zoning districts shall be met;
- 2) Laboratories, research, and experimental stations;

- 3) Manufacturing uses;
- 4) Public utility including production and disposal facilities, storage yard , or supply base;
- 5) Tire recapping or re-treading;
- 6) Concrete batching plants, concrete products companies and concrete contractors provided:
 - (a) Appropriate dust control devices be installed and operable;
 - (b) Appropriate screening be erected to avoid unsightly operations;
- 7) Boarding kennels or pet shelters;
- 8) Conditional uses (requiring permit).
 - (a) Automobile dismantling yard, provided:
 - 1) All activities are conducted in a completely enclosed building or are enclosed by a solid wall or solid fence at least eight feet high;
 - 2) Inoperative automobile bodies or portions thereof may be stacked to a height that does not exceed the height of the required wall;

17.41.030 – Supplementary regulations

- 1) Height restriction. 45 feet.
- 2) Area Minimum. One-half acre (21,780 square feet)
- 3) Setbacks.
 - (a) Front- 10 feet
 - (b) Rear – 15 feet, unless abutting a residential zone, then a 25-foot setback with a 10 foot landscaped buffer is required for buildings up to 35 feet in height. For portions of a building greater than 35 feet in height, the building shall have a setback of one foot for each additional four feet of height up to the maximum height of the district.
 - (c) Side – zero feet, unless abutting a residential zone, then a 25 foot setback with a 10 foot landscaped buffer is required for building up to 35 feet in height. For portions of a building greater than 35 feet in height, the building shall have a setback of one foot for each additional four feet of height up to the maximum height of the district.
 - (d) Corner side – 10 feet.
 - (e) Trash containers and trash compactors – 115 feet from the property line when adjacent to land planned or zoned for residential use.
 - All trash containers and trash compactors shall be screened from a public right-of-way by a decorative wall or enclosure and shall be not less than two feet above the height of the trash container or compactor.
 - (f) Flag poles 25 feet from any property line, with a maximum height of 45 feet. Poles heights greater than 45 feet may be approved by a conditional use permit.
- 4) Off-Street Parking. Shall be required as set forth in **Chapter 17.56** of this title, except for, Shopping centers shall be a minimum of four spaces per one thousand (1,000) square feet of floor area,

- Mixed-use facilities parking shall conform to the City of Belen’s zoning code with best practice standards applied for shared parking ratios to encourage the use of multi-modal transportation systems and reduce the amount of impervious surface.

5) Off- Street Loading. Shall be required as set forth in **Chapter 17.56** of this title.-

- Loading shall be integrated within the site plan and wherever possible integration within the buildings architecture. Innovative loading solution are to be encouraged

6) Landscaping. Shall be required as set forth in **Chapter 17.56** of this title

7) Buffer Zone.

Buffering shall be required to separate this zone from other land use designations’.

(a) Buffer Walls, Berms, or Landscaping shall require City approval before being implemented. After approval, all City requirements shall be adhered to.

(b) Buffer landscaping.

1. Buffer landscaping shall be maintained and kept clean of debris and weeds. Any buffer planting shall be maintained permanently and any plant material which does not live shall be replaced within one year or one growing season.

6) Buffer Lighting

- a) Any lighting within the Buffer Zone shall comply with the Night Sky Protection Act and shielded and placed to direct the light away from adjacent properties.

Chapter 17.44 - SU-1 SPECIAL USE ZONE

Sections:

[17.44.010 – Intent](#)

[17.44.020 – Uses](#)

[17.44.030 – Development plans](#)

[17.44.040 – Discontinued uses](#)

17.44.010 - Intent.

This zone permits only those uses which require special consideration because of their unusual nature, dimensions, frequency of occurrence, effect on surrounding property, or other similar reason. The boundaries of this zone district shall be determined only on a case-by-case basis following the procedures for a zone change as provided in this title. Any accessory uses shall be approved by the city council. Supplementary regulations and special conditions may be imposed by the city council upon recommendation by the planning and zoning commission. The city council may not grant a zone change for special use unless satisfactory provisions have been made:

- A. To assure that the degree of compatibility of property uses shall be maintained with respect to the special use and the surrounding uses of property in the general area;

- B. To preserve the integrity and character of the zone in which the use will be located, and the utility and value of property in the special use zone and in adjacent zones; and
- C. To assure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

(Ord. 370 § 14(A), 1975)

- D. To allow a combination of uses not otherwise permitted in an underlying district.

17.44.020 - Uses.

Special Uses include but are not limited to the following:

- A. Airports, including aircraft sales and service.
- B. Automobile wrecking, dismantling, and salvage provided that:
 - 1. All activities are conducted within a completely enclosed building or within an area enclosed on all sides by a solid wall or fence at least six feet in height, and the principal building is not within two hundred (200) feet of a lot in residential use or zoned primarily for residential use.
 - 2. Inoperative automobile bodies may not be stacked above the plane established by the top of the required surrounding wall.
- C. Cemetery, mausoleum, ~~or cemetery~~ provided that any site for a new cemetery shall contain at least five acres.
- D. Crematory – must be 750 feet away from residential areas and community parks.**
- E. Correction, detention, or penal institution.
- F. Explosives storage, manufacture, or sales, provided that all buildings shall not be within five hundred (500) feet of any lot in residential use, unless sufficient blast, explosion, or fire confinement structures are installed according to national standards.
- G. Fair grounds, baseball park complex, or stadium.
- H. Fuel wholesalers and storage (gasoline, liquefied petroleum) provided that all principal structures such as storage tanks shall not be within five hundred (500) feet of any lot in residential use, unless sufficient blast, explosion, or fire confinement structures are installed according to national standards.
- I. Feed lot operation; livestock auction.
- J. Golf course; driving range.
- K. Junk yard or salvage operation provided that all activities are conducted within a completely enclosed building or within an area enclosed on all sides by a solid wall or fence at least six feet in height.
- L. Mobilehome parks, subject to the following regulations:
 - 1. The minimum park size shall be three acres.
 - 2. Maximum density shall be eight mobilehomes per acre.
 - 3. Each mobilehome shall be situated on a space of at least three thousand five hundred (3,500) square feet.

4. At least two off-street parking spaces per mobilehome is required.
5. No mobilehome shall be located within twenty (20) feet of any other mobilehome. Any mobilehome shall be at least twenty-five (25) feet from the right-of-way line of any public street and at least ten feet from any property line of the mobilehome park.
6. A common area for recreational use by park residents shall be developed and situated in a central location within the mobilehome park. At least three hundred (300) square feet of usable open space per mobilehome is required.
7. A mobilehome park shall have at least one entrance drive from a public street, and access to individual units shall be from private paved drives within the site. A paved walk shall be located along at least one side of each drive. The width and design of the entrance drive and access drives shall be adequate to accommodate fire protection vehicles and equipment. All paved driveways, curbs, gutters, and walkways within the mobilehome park shall be constructed in accordance with the subdivision design standards of the city of Belen.
8. A storm drainage management plan for the mobilehome park is required in accordance with the new drainage ordinance regulations. The mobilehome park shall be graded to retain localized storm water on site. All graded slopes shall be protected from wind and water erosion through acceptable stabilization methods. These may include revegetation, terraced retaining walls of appropriate materials and construction, or erosion control netting. All drainage facilities shall be constructed and designed in accordance with the subdivision design standards of the city of Belen.
9. All utility lines providing electric and telecommunication services within the mobilehome park shall be placed underground. Individual utility service meters shall be placed in the front portion of a mobilehome space and shall be visible and accessible for monitoring purposes. All water and sanitary sewer systems shall be designed and constructed in accordance with the subdivision design standards of the city of Belen.
10. Landscaping is required within mobilehome parks to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible.
11. Area lighting shall be provided in the mobilehome park for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
12. No mobilehome shall be occupied unless it is connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored in accordance with regulations promulgated by the Manufactured Housing Act of New Mexico (60-14-1 et seq. NMSA 1978).
13. In the event a development is being proposed next to an irrigation ditch the developer shall construct a six foot tall chain link fence or a fence of similar construction along the property line which borders said irrigation ditch. Irrigation ditch shall be defined as a lateral or canal and shall not be meant to include a bar ditch or small ditch for individual use.

M. Manufactured home subdivisions, subject to the following regulations:

1. Manufactured homes shall be used as residences, one dwelling unit per lot, and installed on permanent foundations.
 2. Manufactured homes shall meet the construction requirements of manufactured housing; contain a heated area of at least twenty-four (24) by thirty-six (36) feet, or at least eight hundred sixty-four (864) square feet, as stated in the Manufactured Housing and Zoning Act (3-21A-1 et seq. NMSA 1978).
 3. The minimum lot size shall be at least four thousand five hundred (4,500) square feet.
 4. At least two off-street parking spaces shall be required for each manufactured home, either on the lot or in designated parking areas located within one hundred (100) feet of such lot.
 5. Front setback for manufactured homes shall be at least twenty (20) feet.
 6. Side setback for manufactured homes shall be at least five feet.
 7. Rear setback for manufactured homes shall be at least ten feet.
 8. Usable open space shall be provided within the subdivision at five hundred (500) square feet per dwelling unit.
 9. A storm drainage management plan for the manufactured home subdivision is required in accordance with the new drainage ordinance regulations. The manufactured home subdivision shall be graded to retain localized stormwater on site. All graded slopes shall be protected from wind and water erosion through acceptable stabilization methods. These may include revegetation, terraced retaining walls of appropriate materials and construction, or erosion control netting. All drainage facilities shall be constructed and designed in accordance with the subdivision design standards of the city of Belen.
 10. All utility lines providing electric and telecommunication services within the manufactured home subdivision shall be placed underground. Individual utility service meters shall be placed in the front portion of a manufactured home space and shall be visible and accessible for monitoring purposes. All water and sanitary sewer systems shall be designed and constructed in accordance with the subdivision design standards of the city of Belen.
 11. Landscaping is required within a manufactured home subdivision to the extent that it enhances the appearance of the development, alleviates drainage problems, and blends with the surrounding area. Existing trees should be preserved to the extent possible.
 12. Area lighting shall be provided in the manufactured home subdivision for safety and security purposes. All street lights shall be designed and placed in accordance with the subdivision design standards of the city of Belen.
 13. All engineering designs shall meet the requirements of the city of Belen subdivision design standards.
 14. The site development plan and all required submittals shall be in accordance with the subdivision regulations for the city of Belen plat approval.
- N. Sand and gravel operations provided that any depleted land shall be rehabilitated in accordance with the following requirements:
1. Grading or backfilling shall be made with non-noxious and noncombustible solids.

2. Graded or backfilled land shall not collect and permit stagnant water to remain therein.
 3. Peaks and depressions of the area shall be reduced to a surface which will result in topography in substantial conformity to the land area immediately surrounding and which will minimize erosion caused by rainfall and runoff.
- O. Schools; university or college.
- P. Theater (drive-in) subject to the following regulations:
1. Ingress and egress for any site abutting a state highway shall be approved in writing by the State Highway Department.
 2. Reservoir off-street standing space or side service road space shall be provided at any entrance sufficient to accommodate vehicles in an amount equal to at least twenty (20) percent of the vehicular capacity of the theater.
 3. Any screen less than five hundred (500) feet from a county arterial or state highway shall be so located or shielded that the picture surface cannot be seen from such highway.
- (Ord. 2000-04; Ord. 1996-14 (part); Ord. 370 § 14(B), 1975)
- Q. Any use or combination of uses, not otherwise permitted under a specific zoning district.

17.44.030 - Development plans.

Each application for a special use zone shall be accompanied by development plans which shall:

- A. Be drawn to a minimum scale of 1"=100'.
- B. Show boundaries of the property to be developed and the topography both before and after development is completed.
- C. Show the proposed size, location, use, and arrangement of all structures, parking and loading areas, drainage facilities, landscaping and traffic and pedestrian circulation routes.
- D. Indicate the location, type, use, and size of structures on adjacent properties within two hundred (200) feet of the proposed development.

(Ord. 370 § 14(C), 1975)

17.44.040 - Discontinued uses.

In the event that a use authorized as a special use zone is permanently discontinued by the owner, the special use zone may be cancelled and removed from the Belen zoning atlas under the provisions for a zone change in this title. That area delineated by such discontinued special use zone shall be rezoned to the prevailing surrounding zone district as determined by the city council. The city council shall act as the moving party under the conditions of this section.

(Ord. 370 § 14(D), 1975)

Chapter 17.48 - ALLOWABLE LAND USES

Sections:

[17.48.010 – Table of allowable uses](#)

17.48.010 - Table of allowable land uses.

The following table indicates allowable land uses in specific districts of the city of Belen.

X = Permitted use

C = Conditional use

C* = Conditional use (6-month permit)

A-R = Agricultural/Residential

R-1 = Single-Family Residential

R-1A = Single-Family Mixed

R-2 = Multifamily Residential

R-2A = High Density Residential

R-3 = Small Lot Residential

R-4 = Medium Residential

SU-1 = Special Use

C-R = Commercial/Residential

C-1 = General Commercial

C-2 = Mixed Use

M-C = Manufacturing/Commercial

M -1 = Industrial and Business Park

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Airports; aircraft sales and service								X						X
Ambulance service											X		X	X
Amusement parks; carnival; circus	C*								C*		C*		C*	C
Animal shelter; dog pound; kennel	C										X		X	X
Antique dealers									X		X	X	X	C
Appliance store; repairs											X	X	X	C
Armory											C		C	C
Art gallery; art schools									X	X	X	X	X	

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Auction houses (excluding livestock)											X	X	X	X
Automobile sales; service; repair											X	C	X	X
Automobile rental											X	C	X	
Automobile wrecking, dismantling, salvage								X						C
Bakery, confectionery store (retail)									X	X	X	X		
Bakery, candy and confectionery manufacture (wholesale)											X	C	X	X
Ballrooms; dancing instruction									X	C	X	X		
Bank; savings and loan; trust company									X		X	X		
Bars, lounges, and package liquor stores									C		X	X		
Barber or beauty shop				C		C			X	X	X	X	C	C
Batching plant (concrete or asphalt)													X	X
Bed and breakfast					C		C		X		X	X		
Boat dealers; marine supplies									X		X		X	X
Book store										X	X	X	X	
Bottling plant													X	X
Boutique Winery; Craft Brewing									C	C	X	X		
Bowling alley									X		X	X	X	
Brewery; Winery												C		X

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Brick products; manufacture													X	X
Buildings; prefab assembly													X	X
Bus lines (depot and maintenance)											X	C	X	X
Cabinet makers										C	X	C	X	X
Camper equipment, retail sales										X	X	X	X	X
Candle manufacturing; wholesaling											X		X	X
Care home, assisted living, senior housing, group home				C	C	C	C		X	C	X	X		
Car wash											X	X	X	C
Carpet and rug cleaners											X	X	X	C
Castings; tool and die maker; foundry													X	
Cemetery; mausoleum; crematory								X						X
Crematory								X			X			
Ceramics manufacturing									X		C		X	
Chemical manufacturing or processing													X	X
Child care center					X	X	X		X	X	X	X		
Churches; places of worship	X	X	X	X	X	X	X		X	X	X	X	X	
Clinics, dental or medical				C					X	X	X	X		
Clothing and/or dry goods store (retail)						C			X	X	X	X		
Club or lodge (with liquor license)											X	X		

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Club or lodge (without liquor license)				C	C					C	X	X		
Cold storage plant											X		X	X
Community sales center/ welcome/ discovery center incidental and necessary for the sale of new construction (temporary and permanent)	X	X	X	X	X	X	X			X	X	X	X	X
Computer design and development facilities									X	X	X	X	X	X
Concrete and asphalt products manufacture; sales (excluding batch plants)													X	X
Construction contractors; building trades (storage, equipment sales and service)											X	C	X	X
Correction, detention, or penal institution								X						C
Dairy products and sales (wholesale)	X								X		X		X	C
Data processing facilities, equipment and service											X	X	X	C
Delicatessen; catering shop									X		X	X	C	C
Delivery service (parcel and package)									X		X	X	X	X
Department or variety store									X		X	X		
Drug store; pharmacy; cosmetics				C					X	X	X	X		

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Dwelling, single-family (conventional construction)	X	X	X	X	X	X	X		X	X	X	C		
Dwelling, single-family (mobilehome)	X		X											
Dwelling, single-family (modular unit)	X	C	X	X		C				X	X			
Dwelling, multiple-family (apartments, patio homes, town houses or condominiums)				X	X	X	C		X	X	X	X		
Dwelling, boarding or rooming house				X	X		C		X	X	X	X		
Dwelling, temporary watchman or caretaker (mobilehomes may be allowed)	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*
Explosives storage, manufacture, or sales								X						C
Fairgrounds, baseball park complex, stadium					C		C	X				X		
Farmers market	X							X		X	X	X		
Farms supplies, equipment sales and service											X		X	X
Farming; ranching (Prior to development of individual parcels both farming and ranching will be permitted)	X	C	C*	C	C	C	C		C	C	C	C	C	C
Feed lot operation; livestock auction								X						
Fertilizers (wholesale or manufacturing)													X	X
Fiberglass fabricators, product manufacturing													X	X

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Fire stations and ambulance services	X	X	X	X	X	X	X		X	X	X	X	X	X
Fix-it shop (fenced outside storage)											X		X	C
Fix-it shop (completely enclosed)									C	C	X	C	X	C
Flea markets											C		C	
Floral shop, plant store	X								X	X	X	X		C
Food products (manufacturing and processing)													C	X
Food products (wholesale, storage, and sales)	C										X	C	X	X
Food store; grocery market; convenience store	C			C					X	X	X	X		
Fuel wholesales and storage (gasoline, liquefied petroleum)								X						C
Funeral home; mortuary										X	X	X		
Furniture sales and service; upholstery									X		X	X	X	C
Gardening and cultivation of land, supplementary to the primary residential use	C			C	C	C	C		C	C	C	C		
Gasoline service station, including car wash and convenience store	C									C	X	X	X	X
Gift shop; crafts store; curios									X	X	X	X		
Glass products, installation											X	X	X	X
Golf course; driving range					X		X	X				X		

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Golf pitch-and-putt; miniature golf	C								C		X	X	X	
Greenhouse or nursery retail and wholesale (with limited storage of animal by-products, fertilizer, fungicides, herbicides and insecticides as necessary for retail/wholesale purposes and for arboriculture uses on premises)	X										X		X	X
Guns and gunsmiths											X	X	X	X
Hardware store									C	C	X	X	X	
Health club, athletic gym, spa									X	X	X	X	X	C
Home furnishings (sales and service)									X		X	X	X	
Home occupation	C	C	C	C	C	C	C		C	C		C		
Hospital equipment and supplies											X	C	X	X
Hospital; sanatorium; private nursing home	C			C	C	C	C			C	X	X		
Hotel; motel; motor lodge									X		X	X		
Ice cream store									X	X	X	X		
Ice house											X		X	X
Indoor Shooting Range											X	X	X	X
Interior decorators									X	X	X	X	X	X
Janitorial service; supplies											X	X	X	X
Jewelry manufacture and wholesalers									X		X	C	X	X

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Jewelry store (retail)									X	X	X	X		
Judo, karate instruction									X	C	X	X		
Junk yard; salvage operation								X						C
Laboratory (dental, medical)											X	C	X	X
Laboratory (research, testing)											C	C	X	X
Laundromat; dry cleaning; linen supply				C		C				C	X	X	X	C
Library	X	X	X	X	X	X	X		X	X	X	X		
Liquor wholesalers											X		X	X
Locksmith									X	X	X	X	X	X
Lumber yard (retail and wholesale)											X		X	X
Machine shop; metal fabrication; products													X	X
Mobilehome parks								X						
Mobilehome and trailer sales; service; repair											X		X	X
Motorcycle sales; service; repair											X	X	X	X
Moving and transfer company											X		X	X
Museum									X	C	X	X		
Music store									X	X	X	X		
Nonprofit membership clubs				X					X	X	X	X	X	

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Offices; professional and semi-professional				X	C	C	C		X	X	X	X	X	C
Offices; temporary (real estate sales, etc.)	X	X	X	X	X	X	X		X	X	X	X	X	C*
Office equipment and supplies										C	X	X	X	C
Optician; optical goods				C		C			X	X	X	X		
Paint store and related supplies											X	C	X	X
Paper products manufacture													X	X
Paper supplies (wholesale)											X	C	X	X
Parks, neighborhood and community	X	X	X	X	X	X	X		X	X	X	X	X	C
Parking lot or structure, car pool lots/park and ride lots					C		C		C	C	C	X	C	C
Pawn shop										C	X		X	C
Pest control; exterminator											X		X	X
Pet groomer, pet spa, pet day care									X	X	X	X		
Pet shop (completely enclosed)									C	C	X	X		
Photographic equipment and supplies									X	X	X	X	C	C
Photographic studio									X	X	X	X		
Plastic products (manufacture and wholesaling)													X	X
Printing and all allied trades											X	C	X	X

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Radio or television station (without transmitter tower)	C										C	C	X	C
Radio or television station (with transmitter tower)	C										C		X	C
Railroad depot and maintenance facilities													X	C
Recreation facility (community, nonprofit)	C	C	C	C	C	C	C		C	C	X	X	X	C
Recreation hall; billiard parlor									X	X	X	X		
Recycling Center													C	C
Research and development									C	C	X	C	X	X
Rental service stores				C		C				X	X	X	X	C
Rental storage units											C		C	C
Restaurant (with liquor license)									X	X	X	X		
Restaurant, cafe, cafeteria (without liquor license) (no curb service)	C								X	X	X	X	C	C
Restaurant (drive-in)									X	X	X	X	C	C
Sand and gravel operations								X						X
Seasonal sales from a moveable structure, vacant lot or parking lot	C*	C*	C*	C*	C*	C*	C*		C*	C*	C*	C*	C*	C*
Schools; nursery, day care, or kindergarten	C	C	C	C	C	C	C		X	X	X	X		
Schools; elementary and secondary	X	X	X	X	X	X	X		X	X	X	X		

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Schools; business, technical or trade										C	X	X	X	C
Schools; university or college								X				X		
Shopping center complex											X	X	X	C
Sign shop									X		X	X	X	X
Skating rink (indoor or outdoor)											X	X	X	
Specialty shop									X	C	X	X	c	C
Sports complex, regional											C	C	X	C
Sporting goods store									X		X	X	X	
Stable; riding school (commercial)	X											C		
Stadiums, arenas, and auditoriums											X	X	X	C
Stone cutting and monument sales											C		X	X
Storage (private) of boat, camper trailer, or R-V vehicle	C	C	C	C	C	C	C		C	C	C	C	C	
Surplus and salvage goods; second-hand store									C		X		X	C
Tailor shop				C					X	X	X	X		
Taxidermist										C	X	C		
Temporary signage	C*			C*	C*	C*	C*			C*	C*	C*	C*	C*
Temporary construction trailer(s) incidental and necessary for the sale and/or construction of structures by the permittee	C*			C*	C*	C*	C*			C*	C*	C*	C*	C*

Allowable Land Uses	A-R	R-1	R-1A	R-2	R-2A	R-3	R-4	SU-1	B-A	C-R	C-1	C-2	M-C	M-1
Temporary outside storage yards for construction contractors, provided that no permit shall be granted for such use unless adequate provisions are made for screening from adjacent properties to assure protection of the general health, safety, and welfare of the public	C*			C*	C*	C*	C*			C*	C*	C*	C*	C*
Theater (indoor)									X	X	X	X		
Theater (drive-in)								X				C		
Transit stops and transfer station	C			C	X	C	X		C	C	X	X	X	X
Travel trailer courts											X			
Truck plaza, wash, terminal and maintenance											C	X	X	X
Utility, public and private	C			C	C	C	C			C	X	X	X	X
Utility company service center or structure	C			C	C	C	C			C	C	C	X	X
Veterinary hospital (small animal) (completely enclosed)	X				X					C	X	X	X	
Veterinary hospital (large animal)	X										C		X	
Vulcanizing shop, recapping													X	X
Watch repair									X	X	X	X	X	
Welding shop											C		X	X
Warehousing and outdoor storage yards (general)													X	X

(Ord. 2006-09 (part); Ord. 2006-05; Ord. 2005-08 § 2; Ord. 2001-04 § 2; Ord. 1997-18 § 4 (part); Ord. 370 § 15, 1975)

Chapter 17.52 - NONCONFORMING USES AND STRUCTURES

Sections:

17.52.010 – Nonconforming uses and structures

17.52.010 - Nonconforming uses and structures.

- A. Within the districts established by this title, or amendments that may later be adopted, there exist: lots; structures; uses of land and structures; and characteristics of use which were lawful before the ordinance codified in this title was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this title or future amendment. It is the intent of this title to allow these nonconformities to continue until they are removed, but not to encourage their survival.
- B. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls; provided, that the cubic content of the building as it existed at the time of the passage of Ordinance No. 370 shall not be increased. Nothing in this title shall prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting public safety, on order of such official.
- C. A nonconformity shall not be enlarged, expanded, or extended, but the addition of a lawful use to any portion of a nonconforming building which existed prior to the enactment of the ordinance codified in this title shall not be deemed an extension of such nonconforming use.
- D. A single-family dwelling and any customary accessory buildings may be erected on any single lot of record preceding the effective date of adoption or amendment of the ordinance codified in this title. This provision shall apply even though such lot fails to meet the minimum requirements for area or width, or both, that are hereafter applicable within the zoning district; provided that setback and any other requirements of the lot shall conform to the regulations for the district in which such lot is located.
- E. A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding an aggregate cost of twenty-five (25) percent of the assessed value of the building unless said building is changed to a conforming use. No building damaged by fire or other causes to the extent of more than fifty (50) percent of its assessed value shall be restored or rebuilt except in conformity with the provisions of this title.
- F. Whenever a nonconforming use has been discontinued for a period of ninety (90) days or more, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this title.
- G. Nothing in this title shall require any change in plans, construction, or designated use of a building for which a building permit has been issued prior to enactment of this title.

(Ord. 370 § 16, 1975)

Chapter 17.54 - LANDSCAPE REGULATIONS

Sections:

[17.54.010 – Intent of regulations](#)

[17.54.020 – Applicability](#)

[17.54.030 – Landscaping plan](#)

[17.54.040 – Landscaping requirements](#)

[17.54.050 – Maintenance standards](#)

[17.54.060 – Administrative review and fee](#)

17.54.010 - Intent of regulations.

The intent of these regulations is to provide visually attractive landscaping for commercial and industrial developments, to encourage the conservation of water through the use of drought-tolerant plantings and xeriscaping principles, to provide shade in pedestrian and parking areas, and to reduce the erosion of soils and contamination of surface waters caused by stormwater runoff.

(Ord. 1998-28 § 1)

17.54.020 - Applicability.

These regulations shall apply to the following:

- A. All new commercial and industrial development as defined and permitted in this title.
- B. Expansion of existing commercial and industrial development in which the square footage of land area, floor area, lot coverage or parking area is increased by fifty percent or more.

(Ord. 1998-28 § 2)

17.54.030 - Landscaping plan.

All applicants for a building permit for construction of new commercial or industrial development, or for expansion of existing commercial or industrial development applicable to these regulations, shall submit a landscaping plan. **The Planning and Zoning Department shall review and determine compliance. with a required administrative review fee to the City Planning and Zoning officer who shall determine compliance with these regulations.** The landscaping plan shall include:

- A. A site map drawn to scale showing topography in the form of finished contour lines and areas proposed to be landscaped upon completion of the building construction project;
- B. Common or botanical names of the plants to be used, indicating plant size, location and spacing shown on the site map;
- C. The location, type and size of any underground or overhead utility lines, **including but not limited to lights, poles & signs**, on the site with reference to the landscaped areas;
- D. Type and layout of the irrigation system, if required, for landscaped areas indicating connections to the water supply source;

- E. A stormwater drainage plan for the site shall be attached or referenced in accordance with the city drainage regulations for commercial and industrial development.

(Ord. 1998-28 § 3)

17.54.040 - Landscape requirements.

All landscaping created pursuant to these regulations shall be planned, designed, and installed in compliance with the following requirements:

- A. A minimum of five percent of the total site area shall be landscaped in a manner that will meet the intent of these regulations. Landscaping shall consist of, **but not limited to, trees (2 caliper (2" diameter) in the Downtown Master Plan area, 1 caliper (1" diameter) for the remaining areas)**, shrubs (1 gal), ground-cover, or other low-growing plants, and may include natural or manufactured materials such as rocks, walls, pavements for walkways or patios, works of art, and outdoor furniture.
- B. Drought-tolerant plantings are encouraged in all landscape designs. **Upon request,** The City Planning and Zoning **officer** **Department** will provide a list of drought-tolerant plants. **for the area to be landscaped.**
- C. To the extent possible, healthy existing trees and shrubs should be preserved, especially if drought-tolerant, and incorporated into the landscaped area.
- D. Trees shall be planted as a landscape border along all abutting roadways and may be planted as an interior landscape border within vehicle parking areas. Spacing of trees in a landscape border shall be no greater than forty (40) feet apart.
- E. Vegetation may be used to satisfy a screen requirement in accordance with this title to visually separate the land use on the commercial or industrial development site from an abutting residential land use.
- F. Landscaping shall not create a physical or visual obstruction to vehicular traffic whether on or off public rights-of-way.
- G. Placement of new trees shall avoid locations where future tree growth might interfere with utility lines or cause structural upheaval of pavements or buildings.
- H. All landscape areas should make use of stormwater catchment and retention on site for purposes of flood control, water pollution abatement, prevention of soil erosion, and increased soil moisture for vegetation. On-site stormwater retention structures shall be designed to ensure public health and safety, during and following storm events.

(Ord. 1998-28 § 4)

17.54.050 - Maintenance standards.

All landscaping installed in compliance with these regulations shall be **installed and maintained in compliance with these regulations.** **as long as the commercial or industrial land use remains an active facility.** The following maintenance standards are required:

- A. Any plant material in areas of required new landscaping that does not survive will be replaced with an equivalent size and species of plant within three months.
- B. Plants shall be pruned as necessary to control size or shape, but not to endanger its health, in order to prevent visual and physical obstructions to pedestrians or vehicles.

- C. Regular landscape maintenance should ensure water efficiency and include, but not be limited to, pruning, mulching, weeding, litter and dead plant removal, fertilizing, insect and disease control, and improvements or repair of nonvegetative materials.
- D. Substantial modifications to landscaping will require review and approval of a revised landscape plan by the city engineer. Minor modifications of the landscaping occurring as a result of routine maintenance or replacement of vegetation because of damage or disease are not subject to approval by the city engineer.
- E. Irrigation systems will be maintained and replaced as necessary to minimize loss of water due to leaks or inefficient use of water.

(Ord. 1998-28 § 5)

17.54.060 - Administrative review and fee.

These landscape regulations shall be enforced by the City Planning and Zoning Department **officer** who is authorized to review and approve landscape plans. Applicants for building permits to be granted by the city for commercial or industrial development shall confer with the City Planning and Zoning **Department officer** regarding the landscape requirements contained herein. An administrative fee of **thirty dollars (\$30)** ~~fifteen dollars (\$15.00)~~ shall be paid to the City to cover the landscape plan review costs. For complex and extensive landscape plans, the City Planning and Zoning **Department officer** may request an independent review of such plan by the city engineer or other qualified individual. Specific costs associated with an independent review of a landscape plan shall be paid to the City by the building permit applicant. All reviews of landscape plans shall be completed within thirty (30) days of receipt and documented with reasons given for approval or disapproval. Requests for variances or waivers to the requirements of these regulations shall be submitted to the City Planning and Zoning **Department officer** in writing. A variance or waiver may be granted or denied at the discretion of the City Planning and Zoning **Commission officer** with reasons given in writing and returned within thirty (30) days of receipt of the request for variance or waiver. Any decision made by the City Planning and Zoning **Department officer** in carrying out the provisions of these regulations may be appealed to the Belen City Council.

(Ord. 1998-28 § 6)

Chapter 17.56 - OFF-STREET PARKING AND LOADING

Sections:

[17.56.010 – Off-street parking requirements](#)

[17.56.202 – Off-street loading requirements](#)

17.56.010 - Off-street parking requirements.

- A. In all zone districts, there shall be provided, at the time any new building or structure is erected, off-street parking spaces as set forth in the following subsections. All existing buildings or structures need supply such parking only to the extent ground space is available. Off-street parking must be provided on site or within three hundred (300) feet of the site.

- B. The minimum number of parking spaces to be provided shall be as shown on the following list:
1. Single-family dwellings: two spaces per dwelling unit;
 2. Multifamily dwellings: two spaces per dwelling unit;
 3. Mobilehome parks and travel trailer courts: two parking spaces per mobilehome space or travel trailer space;
 4. Home occupation: no additional spaces;
 5. Hotels and motels: one space per unit and one space per two employees;
 6. Hospitals, clinics, and convalescent or nursing homes: one space per two beds and one space per staff doctor;
 7. Medical and dental offices: five spaces per doctor;
 8. Places of public assembly, including churches, community centers, auditoriums, theaters, gymnasiums, arenas, and mortuaries: one space per four seats;
 9. Club, lodge, or fraternal organization: one space per two hundred (200) square feet of floor area;
 10. Banks, offices, service establishments, retail businesses, and public buildings: one space per three hundred (300) square feet of floor area;
 11. Restaurants (except drive-ins), bars: one space per four seats;
 12. Industrial, manufacturing, and wholesale establishments: one space per two employees on largest shift;
 13. Shopping center developments: five spaces per one thousand (1,000) square feet of floor area;
 14. Bowling alleys: four spaces per alley;
 15. Laundromats: one space per three machines.
- C. For mixed uses within the same building or structure, the total requirement for off-street parking spaces shall be the sum of the requirements of each use computed separately.
- D. The following minimum design standards shall be observed in laying out off-street parking facilities:
1. All facilities must provide appropriate access to a street, alley, or public thoroughfare.
 2. All driveways shall be of sufficient width to permit access into parking spaces, but in no case less than twenty (20) feet wide.
 3. Each parking space shall consist of an area not less than nine feet wide by twenty (20) feet long exclusive of driveway area.
- E. An applicant for a building permit must submit plans showing the off-street parking required by this section. These plans must show location, arrangement, and dimensions of the off-street parking, turning spaces, drives, aisles, and ingress and egress in a manner satisfactory to the zoning enforcement officer.

(Ord. 1996-23 (part); Ord. 1996-14 (part); Ord. 370 § 17, 1975)

17.56.020 - Off-street loading requirements.

- A. Under the conditions of this section, loading space shall be provided for bulk pickups and deliveries and accessible to delivery vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included in the computation of required off-street parking space.
- B. Individual loading spaces required under this section shall be at least fifty (50) feet long and twelve (12) feet wide, and shall be located on private property.
- C. Every building or structure used for commercial or industrial purposes shall be provided with off-street loading space.
- D. Buildings or structures used for office or research purposes and having a total floor area of at least twenty thousand (20,000) square feet shall be provided with off-street loading space.

(Ord. 370 § 18, 1975)

Chapter 17.58 - SIGN REGULATIONS

Sections:

[17.58.010 – Intent](#)

[17.58.020 – Definitions](#)

[17.58.030 – Business signs](#)

[17.58.040 – Temporary signs](#)

[17.58.050 – Residential signs](#)

[17.58.060 – Prohibited signs](#)

[17.58.070 – Sign permits and fees](#)

[17.58.080 – Exemptions](#)

[17.58.090 – Campaign Signs](#)

17.58.010 - Intent.

It is the intention of the city of Belen to allow such signs that will not endanger the public safety, will not obstruct or detract from visibility necessary for traffic safety, and will not conflict with the development policies and land use objectives set by the city of Belen. No sign shall be installed or maintained within the city of Belen unless such sign conforms to the regulations herein. Every sign shall be maintained in good structural condition at all times.

(Ord. 1999-05 (part))

17.58.020 - Definitions.

For purposes of this section, the following words, terms, and **phrases** shall apply:

"Billboard" means an advertising sign that is not physically located on the premises to which the sign refers. Billboards are also called off-premises signs.

"Building-mounted sign" means any sign attached to any part of a building, as contrasted to a freestanding sign.

"Freestanding sign" means a sign attached to an independent supporting structure which is not an integral part of a building.

"Nonconforming sign" means any sign which does not conform to the regulations of this section upon the effective date of adoption or amendment thereto.

"On-premises sign" means a sign which advertises the primary goods or services sold or taking place upon the premises on which the sign is located.

"Portable sign" means a temporary sign which has removable lettering, usually mounted on wheels, and is not permanently attached to a building.

"Portable sign dealer" means a sign dealer in the business of renting portable signs to businesses or individuals and placed within the city.

"Residential sign" means any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the Belen zoning ordinance.

"Sign" means a device which is constructed to convey information visually to the public. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. The size of signs shall be regulated according to the sign face.

"Sign face" means that area of the sign which is enclosed by a continuous line, connecting the extreme points or edges of the sign, but not including structural supports of the sign. For any two-sided sign on which both sign faces cannot be viewed at once, only one sign face shall be counted in calculating the sign size.

"Temporary sign" means any sign that is used only temporarily and is not permanently mounted.

"Wall sign" means any sign painted on or applied directly onto the outside wall of a building and which displays only one advertising surface.

"Window sign" means any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior of a building; provided, however, that the total square feet of window sign shall not exceed twenty-five (25) percent of any of the window areas.

(Ord. 1999-05 (part))

17.58.030 - Business signs.

The following regulations shall apply to all signs relating to business, commercial, industrial, institutional and service provider activities:

A. On-premises business signs shall be regulated as follows:

1. One or more signs may be placed on the premises of a business, commercial, industrial, institutional, or service provider activity; however, the cumulative total of sign face computed for all signs on each of the premises shall not exceed five hundred (500) square feet;
2. For each freestanding sign, the sign face shall not exceed one hundred fifty (150) square feet per sign;
3. Wall signs, window signs and building mounted signs shall be included in the computation of sign face; however, the cumulative total may be increased if granted a variance in accordance with the Belen zoning ordinance;
4. Freestanding signs shall not exceed a height of thirty (30) feet and building-mounted signs shall not exceed the height of the building unless granted a variance in accordance with the Belen zoning ordinance.

- B. New billboard signs shall be prohibited and existing billboard signs shall be regulated as nonconforming signs:
 - 1. The nonconforming billboard signs shall be allowed to remain but may not be enlarged, expanded, modified, extended or relocated;
 - 2. A nonconforming billboard when destroyed by natural causes, may be reconstructed within the following thirty (30) days subject to current city standards;
 - 3. Whenever a nonconforming billboard has been discontinued as an outdoor advertising device for a period of sixty (60) consecutive days, the city shall cause the billboard to be removed at the expense of the property owner; and
 - 4. Structural maintenance of nonconforming billboards shall be continued until the sign is removed by the property owner.
- C. For the purpose of regulating outdoor night lighting fixtures to preserve and enhance the community's natural resource of dark skies while promoting safety, conserving energy and preserving the environment for astronomy, all direct external lighting fixtures used to illuminate any sign shall be mounted on the top of the sign structure and shall be effectively shielded to prevent direct or reflected light into the sky and onto highways or residential areas. All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of the New Mexico Electrical Code and under appropriate permit and inspection. The following signs are exempt from these lighting regulations:
 - 1. Signs lighted by means of internal indirect light;
 - 2. Signs with outdoor lighting fixtures used on land or facilities under the control of the federal government; and
 - 3. Signs with lighting fixtures legally installed prior to the effective date of the regulations codified in this subsection; however, when lighting fixtures on existing signs become inoperable or are replaced or structurally altered, such lighting fixtures must conform to this subsection.

(Ord. 2003-05; Ord. 1999-05 (part))

17.58.040 - Temporary signs.

Requirements for certain types of temporary signs which are placed for a limited period of time shall be as follows:

- A. Signs relating to the sale, lease, or development of real estate shall comply with the following regulations:
 - 1. One on-premises sign per lot is permitted, provided that no such sign face shall exceed five square feet;
 - 2. Off-premises signs directing prospective buyers to real estate for sale or lease shall be limited to no more than three signs for each referenced property, provided that no such sign face shall exceed ten square feet;
 - 3. Signs promoting or advertising subdivisions for sale shall not have a sign face greater than thirty-two (32) square feet; and
 - 4. All real estate signs shall be removed within five days after the property is sold.

- B. Portable signs may be located on any lot which is not used for residential purposes. The sign face for any portable sign shall not exceed thirty-two (32) square feet;
- C. No temporary sign shall be higher than its distance to the nearest point on the property line, but in no case higher than the height of the highest building on the premises; and
- D. Temporary signs shall be nonilluminated.

(Ord. 1999-05 (part))

17.58.050 - Residential signs.

Requirements for certain types of residential signs shall be as follows:

- A. One nonilluminated sign is allowed for each home occupation permitted by the city; provided that no such sign shall exceed five square feet of sign face; and
- B. One nonilluminated sign per lot is allowed in the agricultural/residential (A-R) zone district for the sale of homegrown agricultural products, provided that no such sign shall exceed ten square feet of sign face.

(Ord. 1999-05 (part))

17.58.060 - Prohibited signs.

The following signs are prohibited within the municipal limits of the city of Belen:

A. Signs located within dedicated public right-of-way or an easement for a roadway;

- B. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic;
- C. Signs which extend over any public highway such that free movement of traffic on the public highway is impaired;
- D. Signs which extend over or onto any public sidewalk such that free movement on the public sidewalk is impaired or traffic is distracted;
- E. Signs which are over three feet in height and less than eight feet in height within a clear sight triangle area. A clear sight triangle is an area of unobstructed vision at the intersection of public highways, defined by lines of sight between points twenty-five (25) feet from the intersection of street right-of-way lines;
- F. Billboard signs;
- G. Signs applied to trees, rocks or other natural objects; and
- H. Signs which are or may become a public safety hazard.

(Ord. 1999-05 (part))

17.58.070 - Sign permits and fees.

Within the city of Belen, it is unlawful for any person to erect or relocate any sign as defined and not exempted herein without first obtaining a sign permit from the city and paying any fees or charges required by this section. When a sign permit has been issued by the city, it is unlawful to modify, alter or otherwise deviate from the terms and conditions of such permit without prior approval from the city. The city shall inspect and have the authority to order the

painting, repair, alteration or removal of any sign which shall constitute a hazard to safety, health or public welfare by reason of inadequate maintenance or dilapidation.

- A. Application for a sign permit shall be made in writing upon a standard form provided by the city. The city, within five working days of the date the application is received, shall either approve or deny the application or refer the application back to the applicant in any instance where insufficient information has been furnished. The application shall contain or have attached thereto the following information:
1. Name, address and telephone number of the applicant, and name of person, firm, corporation or association erecting the sign;
 2. Two permanent copies of the plans and specifications drawn to scale and including:
 - a. The dimensions of the sign face and its supporting members and, where applicable, the dimensions and a photograph of the wall surface of the building to which it is to be attached,
 - b. A description of the materials used for construction of the sign,
 - c. The maximum height and minimum clearance of the sign,
 - d. The position of the sign in relation to the front of the building and to adjacent buildings, structures or other signs, and
 - e. The location of the sign in relation to the boundaries of the lot upon which it is situated;
 3. Written consent from the owner of the building, structure or land to which or on which the sign structure is to be erected;
 4. Any electrical permit required and issued for the sign. Application requesting electrical permit for the proposed sign must accompany sign application; and
 5. If appropriate, a copy of the lease for property on which the sign is to be constructed.
- B. For purposes of financing the administration and inspection of signs within the city of Belen, an initial permit fee shall be assessed for individual premises installing one or more signs. The initial sign permit fee shall be waived for signs existing prior to the effective date of the regulations codified in this chapter; however, permit applications must be completed and submitted to the city following a written notice from the city. A sign permit shall become void if the business activity on the premises is discontinued for a period of one hundred eighty (180) days or more and is not renewed within thirty (30) days of a notice from the city to the last permittee, sent to the premises, that the sign permit will be voided if such activity is not renewed. ~~Subsequent to the initial sign permit, an annual sign regulation charge is collected by the city.~~ Sign permit fees are determined as follows:
1. The initial permit fee shall be collected for all proposed signs following the effective date of the ordinance codified in this section and shall be based on the size of the sign:
 - a. A base fee of twenty dollars (\$20.00) will be assessed for each sign ~~up to and including a sign face of seventy two (72) square feet, and~~ plus ten (\$.10) cents per square foot of sign face;

~~b. All signs with a face greater than seventy two (72) square feet will be assessed an additional one dollar per square foot of sign face over seventy two (72) square feet. A double faced sign will be charged for both sign faces;~~

~~2. A one-time sign regulation charge of fifteen dollars (\$15.00) will be required for the registration of all existing signage within the city.~~

- C. A temporary sign permit shall allow the use of one portable sign, **or Banner**, for a **specified** thirty (30) day period on individual premises. No more than three portable sign permits may be issued to the applicant for each calendar year. The fee for a portable sign permit is ten dollars (\$10.00) for each thirty (30) day period. Portable sign dealers who do business within the Belen city limits shall pay an annual fee of one hundred dollars (\$100.00).
- D. A sign permit tag, issued in conjunction with a permit, will be affixed to the sign structure within thirty (30) days of the issuance of the permit. Failure to affix the sign permit tag to the sign structure, which is the subject of the permit, shall render the permit void. The permit tag will be affixed to the sign face in the lower corner nearest the street right-of-way.

(Ord. 2000-09; Ord. 1999-05 (part))

17.58.080 - Exemptions.

Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with applicable provisions of this section or other laws or regulations. The exemptions shall apply to the requirement for a sign permit, and no sign permit will be required for the installation of the following signs:

- A. Temporary signs, provided they are in compliance with the regulations herein;
- B. Residential signs, provided they are in compliance with the regulations herein;
- C. Signs not exceeding one square foot of sign face and bearing only property numbers, mail box numbers or names of occupants of premises;
- D. Flags and insignia of any government, except when displayed in connection with commercial promotion;
- E. Legal notices, identification information or directional signs erected by governmental bodies;
- F. Integral decorative or architectural features of buildings, except letters and trademarks; and
- G. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

(Ord. 1999-05 (part))

17.58.090 – Campaign Signs.

A. Definitions.

“Campaign sign” means any sign, as defined in section 17.58.20, that contains the name of, image of, or any message regarding a candidate in any election or that contains a message or identification of an issue in any election.

“Campaign sign, small” means any campaign sign not exceeding four (4) square feet.

“Campaign sign, large” means any campaign sign larger than four (4) square feet, and shall include banners of all sizes.

“Election” means any primary, general or special election governed by the state election code, NMSA 1978, Chapter 1, any regular or special municipal election, and any regular or special election of a school district or other special district.

“Issue” mean any ballot question other than a candidate, including, but not limited to, constitutional amendments, bond question, tax questions, initiatives or referenda.

“Responsible party” mean the representative of any candidate or of any issue who shall be responsible for obtaining a sign permit and for compliance with the provisions of this code. A political action committee (“PAC”), whether officially registered or not, may be a responsible party.

B. Responsible Party.

1. **Partisan Candidates.** For any candidate of a major or minor political party, the chairperson of the county political party or the chairperson’s designee shall be presumed to be the responsible party, provided, that the candidate may agree to be the responsible party. In the absence of a county chairperson or designee, the candidate shall be the responsible party. The chair or the chair’s designee may obtain a single permit for all candidates or for designated candidates in a given election.
2. **Non-partisan candidates.** For any candidate that is listed on a ballot without party affiliation, the candidate or the candidate’s designee shall be presumed to be the responsible party.
3. **Issues.** For any issue the responsible party shall be presumed to be, in order:
 - a. The person designated by the organization sponsoring the sign;
 - b. The person designated as treasurer on any form filed with the Secretary of State;
 - c. The person, if any, whose name appears on the sign as treasurer or representative; or
 - d. The owner of the property on which the sign is located.

C. Permit Required

1. All campaign signs displayed within the city limits shall conform to the definition of either a small campaign sign or a large campaign sign.
2. Except as exempted herein, the responsible party shall obtain a permit, on a form provided by the City Clerk, prior to placement of any campaign signs on any property. The Clerk shall provide the responsible party with a copy of the rules regulating campaign signs at the time of issuing the permit, or at the time of registration for any municipal election, whichever is earlier.
3. The responsible party shall post a deposit with the City Clerk in the following amount in order to guarantee removal of all campaign signs covered by the permit following the election:
 - a. Non-partisan elections – individual candidates: \$100
 - b. Partisan elections – individual candidates: \$100
 - c. Partisan elections – political party permit: \$500
 - d. Issues – organization: \$500
 - e. Issues – property owner: \$100
 - f. All elections – registered or unregistered PAC: \$500
4. The responsible party and/or a private property owner, as applicable, shall be responsible for code compliance of all campaign signs located on property covered by this code.
5. The Code Enforcement Officer shall notify the responsible party and/or the property owner, as applicable, of violations of the provisions of this code, upon failure of the responsible party or the property owner to cure the violation within the time specified in the notice, the Code Enforcement Officer may issue a citation to the responsible party, the property owner, or both.
6. Within ten (10) days following Election Day, all campaign signs shall be removed from the areas covered by the permit. Upon certification by the Code Enforcement Officer, of compliance, the Clerk shall refund the deposit to the responsible party. The responsible party shall forfeit the deposit if all campaign signs have not been removed within said period. Any campaign signs remaining following said ten (10) day period shall be deemed abandoned, subject to removal and disposal by the City.

D. Display of Campaign Signs.

1. **Period of display.** The permit shall authorize the display of campaign signs not sooner than thirty (30) days prior to election, day and shall expire at the end of the tenth (10th) day following election day.
2. **Location.** Campaign signs may be displayed during the authorized period only on private property.

- a. Campaign signs shall be located in a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, and as not to obstruct or interfere with a driver's view of approaching, merging or intersecting traffic. Any sign placed in violation of these provisions shall be subject to immediate removal without notice, by the City.
 - b. No campaign sign shall extend over any right-of-way or any sidewalk.
 - c. All campaign signs shall be either free-standing or affixed to a permanent structure, such as a building or wall, but shall not be affixed to any publicly-owned structure, such as a fence, wall or pole.
3. Small campaign signs located on improved, residentially zoned property shall be subject to the provisions of this code, but shall not require a permit.

E. Enforcement.

1. **Code Enforcement Officer.** The Code Enforcement Officer shall be authorized to enforce this section by issuing notices and citations to the responsible party and/or the property owner, and shall be authorized to remove campaign signs displayed in violation of the provisions of this section.
2. **Right-of-Way and Public Property.** Upon determining a violation of the provisions of this section for any campaign sign located within the public right of way or on public property, the Code Enforcement Officer shall notify the responsible party of the violation and specify the time within which the violation must be corrected. Upon failure of the responsible party to correct the violation as directed, the Code Enforcement Officer may remove the campaign sign or signs in violation of this section, provided, that the Code Enforcement Officer may remove without notice any campaign sign that the officer determines to be a threat to public safety.
3. **Private Property.** Upon determining a violation of the provisions of this section for any campaign sign located on private property, the Code Enforcement Officer shall notify the property owner of the violation and shall specify the time within which the violation must be corrected. Upon failure of the property owner to correct the violation as directed, the Code Enforcement Officer may issue a citation to the property owner, In the event that the property owner cannot be identified, the Code Enforcement Officer may issue the warning and/or citation to the responsible party.
4. **Survival of Citation.** Any citation issued for violation of these provisions shall survive the conclusion of the election, and shall be punishable in municipal court according to the general penalty provisions of this code, with minimum fines as specified herein.
5. **Minimum fine.** Upon a finding of violation, the municipal court shall impose a mandatory minimum fine of fifty dollars (\$450) per sign, per day. Each day of violation shall constitute a separate offense.

F. Other Campaign Signs.

1. **Private Property.** Any campaign sign or other political sign located on private property that has not been included in the permit provisions of this section shall comply with all other provisions of this chapter. For commercially-zoned property, the sign shall be considered a commercial sign subject to the requirement and limitations of Section 17.58.030 regarding business signs. Any such sign, including the sign structure, shall be considered a non-conforming billboard sign, subject to removal as provided for in Section 17.58.030(B)(3).
2. **Public Right-of-Way and Public Property.** Any campaign sign located within the public right-of-way or on public property shall be unlawful and shall be subject to removal as provided for herein.

Chapter 17.59 - WIRELESS TELECOMMUNICATIONS FACILITIES

Sections:

[17.59.010 – Title and purpose](#)

[17.58.020 – Definitions](#)

[17.58.030 – General requirements](#)

[17.58.040 – Permit application requirements](#)

17.59.010 - Title and purpose.

- A. The ordinance codified in this chapter is known as the "Wireless Telecommunications Facilities Ordinance" and is referred to herein as "these regulations."
- B. The purpose of these regulations are as follows:
 1. To regulate the construction, installation, or modification of wireless telecommunication facilities (WTF);
 2. To allow wireless telecommunications service providers to operate effectively and efficiently within the community while minimizing the total number and overall impact of additional towers;
 3. To promote collocation or the construction of attached wireless telecommunications facilities, and encourage the use of appropriate public and semi-public properties where possible;
 4. To require design and construction of wireless telecommunications facilities to be compatible with adjacent land uses;
 5. To protect the scenic, historic, and environmental quality of the city from the adverse impacts of wireless telecommunications facilities development; and
 6. To protect the public health, safety, and general welfare of the community.
- C. All references to zoning in these regulations shall pertain to the Comprehensive Zoning Ordinance of the city. These regulations are considered as a supplement to the Zoning Ordinance.

(Ord. 2001-18 § 1)

17.59.020 - Definitions.

The term wireless telecommunications facilities is referred to hereafter as "WTF." The following definitions apply to these regulations:

Antenna, WTF. "WTF Antenna" means any exterior transmitting or receiving device which may be mounted on a tower, building, or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), or other commercial signals. Such antenna includes, but is not limited to, an omni-directional antenna (whip), directional antenna (panel), or parabolic antenna (dish).

"Attached WTF" means an antenna that is attached or affixed to an existing building or structure, including public utility structures and freestanding signs.

"Collocation" means the location of more than one WTF on the same structure by more than one WTF owner, or the location of one or more WTF on a public utility structure.

"Concealed WTF" means a WTF that is architecturally integrated with existing buildings or structures by means of color, massing, placement, design, or shape, and which does not stand out as a WTF.

"Freestanding WTF" means a WTF that consists of a stand-alone support structure, antennas, and associated equipment. The support structure may be a wooden pole, steel monopole, lattice tower, guy-wire support tower, or other similar structure. This does not include a WTF antenna that is mounted on a public utility structure.

Height, WTF. "WTF Height" means the vertical dimension of a WTF or support structure, as measured from the ground elevation at the base of the WTF or support structure to the top of the structure, including the antenna.

"Public utility structure" means a structure, owned by a unit of government or by a public utility company, which includes but is not limited to an electric substation, gas transfer station, wastewater collection structures, public water supply structures, street light poles, or any other similar public utility structure. A WTF antenna may be attached to a public utility structure subject to any height requirements established herein.

"Wireless telecommunications facilities (WTF)" means a facility that transmits or receives signals radiated or captured by a WTF antenna. A WTF includes antennas, equipment for the transmission or reception of signals, support structures, equipment buildings or cabinets, parking areas, and other accessory development.

"Wireless telecommunications services" means the provision or offering for rent, sale, or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic, and video programming information between or among points of location, but excluding cable services. Such services are further defined in the Federal Telecommunications Act.

(Ord. 2001-18 § 2)

17.59.030 - General requirements.

The following regulations apply to all WTF within the municipal limits of the city:

A. Setbacks and Height.

1. A freestanding WTF will be set back a minimum of seventy-five (75) feet from the property line, or at a one-to-one ratio (one foot of setback for every foot of tower

height from the property boundary of the WTF), whichever is greater, from any residentially zoned property.

2. For any setbacks not covered above, setbacks must conform to the setback requirements of the zone district in which the WTF is located.
3. A freestanding WTF shall not exceed a height of seventy-five (75) feet within lands zoned for residential purposes, however a freestanding WTF may be constructed up to one hundred (100) feet on lands zoned for industrial purposes.
4. An attached WTF shall not extend more than twenty (20) feet above the height of the structure upon which the WTF is mounted.

B. Lighting and Signage.

1. Only security lighting or lighting required by a state and/or federal agency is allowed, if the location and direction of the lighting fixture will be such that it does not shine directly on any public right-of-way or any residential premises.
2. The only signage that is permitted is that which is required by state or federal law.

C. Telecommunications Equipment Building or Cabinet.

1. Any telecommunications equipment building or cabinet shall not contain more than four hundred (400) square feet of gross floor area per user and shall not be more than twelve (12) feet in height.
2. Setback of equipment buildings or cabinets shall conform to the setback requirements of the zone district in which the WTF is located.

D. Abandonment.

1. All WTF which are not in use for six consecutive months will be removed by the WTF owner. Costs associated with removal of an abandoned WTF and site restoration will be paid by the service provider, owner of the WTF and/or property owner.
2. Removal of a WTF shall take place within three months of the end of such six-month period. Upon removal, the surface of the site shall be restored to a condition suitable for redevelopment.

E. Collocation.

1. No new freestanding WTF shall be permitted unless the city engineer determines, upon the applicant's demonstration, that no existing tower, structure or public utility structure can be used in lieu of new construction to accommodate the applicant's proposed WTF.
2. Evidence submitted to the city which demonstrates that no existing tower structure, or public utility structure within a $\frac{1}{4}$ mile radius of the proposed facility can reasonably accommodate the applicant's proposed WTF shall consist of the following:
 - a. That no existing tower, structure, or public utility structure is located within the $\frac{1}{4}$ mile radius which meets the applicant's engineering requirements;
 - b. That no existing tower, structure, or public utility structure is located within the $\frac{1}{4}$ mile radius which has sufficient structural strength or space available to support the applicant's proposed WTF and related equipment;

- c. That the applicant's proposed WTF would not cause unavoidable electromagnetic interference with the antenna(s) on the existing towers, structures or public utility structures, or the antenna(s) on the existing towers, structures or public utility structures would not cause interference with the applicant's proposed WTF; or
 - d. That the owners of existing towers, structures, or public utility structures within the ¼ mile radius will not allow the applicant to place its WTF thereon, or such owners are requiring payments for the use of their tower that substantially exceed commercially reasonable rates.
- F. Interference and Health Issues.
 - 1. Every WTF shall meet the regulations of the Federal Communications Commission regarding physical and electromagnetic interference.
 - 2. Every WTF shall meet health and safety standards for electromagnetic field emissions as established by the Federal Communications Commission and any other federal or state agency.
- G. Main Street Overlay Zone (Main Street District).
 - 1. Only a concealed WTF is allowed within the Main Street Overlay Zone (Main Street District), as delineated on the city zoning map.
 - 2. All freestanding WTF are prohibited within 1/8 mile of the boundary of the Main Street Overlay Zone (Main Street District).
- H. Concealed WTF.
 - 1. Concealed WTF must be:
 - a. Architecturally integrated with an existing building or structure by means of color, massing, placement, design, or shape;
 - b. Located on existing vertical infrastructure, such as utility poles or public utility structures, if possible; and
 - c. Located in areas where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.
 - 2. A proposed concealed WTF will be subject to review and approval by the city of Belen planning and zoning commission in order to determine whether the WTF is "concealed".
- I. Applicability and Exclusions.
 - 1. Every WTF located within the city, whether upon private or public lands will be subject to these regulations and shall require a permit issued by the city.
 - 2. The following facilities are exempted from these regulations:
 - a. Amateur Radio Station Operator/Receive-Only Antenna if owned and operated by a federally licensed amateur radio station operator or used exclusively for a receive-only antenna;
 - b. Any tower or antenna existing prior to the effective date of these regulations provided that no alterations are made to the WTF unless they are in compliance with these regulations; and

- c. Any WTF used exclusively for emergency services including police, fire, and operations of the city water utility's.

J. Noise.

1. Noise-producing equipment will be sited and/or insulated to guarantee that no increase in noise above ambient levels measured at the property line occurs.
2. Back-up generators shall only be operated during power outages and for testing and maintenance purposes conducted during regular business hours.

K. Landscaping.

1. Any freestanding WTF must incorporate sufficient landscaping as a screening device at the base of the tower and around associated structures, subject to the review and approval of the planning and zoning commission of the city of Belen. Existing vegetation and natural landforms on the site will be preserved to the maximum extent possible.
2. All vegetation, landscaping, and grounds removed, damaged or disturbed as a result of the construction, installation, maintenance, repair or replacement of any WTF, will be replaced or restored by the WTF owner as nearly as practicable to the condition existing prior to performance of work.

(Ord. 2001-18 § 3)

17.59.040 - Permit application requirements.

- A. No WTF may be constructed, installed, modified, or operated within the municipal limits of the city without first obtaining a permit from the city. An application for a WTF permit shall be submitted to the city zoning officer and shall include the following:
1. A general location map showing the proposed site for the WTF and surrounding lands within a ¼ mile radius of the proposed site. This map should show major roads and other features necessary to locate the site.
 2. A vicinity map showing property lines of the land on which the WTF is located, and surrounding properties adjacent to the WTF property. On-site and off-site zoning and land uses will be indicated on the vicinity map, including the city of Belen and other zoning jurisdictions, if applicable;
 3. Documentation regarding collocation as described in these regulations;
 4. Site plans, drawn to scale, that include the following information:
 - a. All property lines, showing distances and bearings, with topography sufficient to characterize site drainage;
 - b. All existing and proposed site improvements, including buildings and structures, roadways and easements, utility lines, and landscaping, with dimensions and setbacks from property lines;
 - c. A written statement and elevation drawings of the proposed WTF, indicating the type of construction, support structure, tower height, and visual image presented by the WTF;

- d. A notarized statement from the applicant that describes the facility's capacity and declares the number and type(s) of antenna(s) that it can accommodate, or an explanation of why the facility cannot be designed to accommodate other users;
 - e. An engineer's stamp and registration number;
 - f. A five-year plan stating their intentions and not subject to change; and
 - g. Any other information as requested by the city.
5. For any new WTF, a letter of intent committing the WTF owner and any successors to allowing shared use of the facility if an additional user agrees in writing to meet reasonable terms and conditions of shared use.
- B. Any requests for a WTF permit will be submitted with a filing fee of one hundred dollars (\$100.00) to the zoning officer on a prescribed form obtainable at the planning and zoning office. The zoning officer shall transmit the applications and all supplementary information to the planning and zoning commission for consideration at a public meeting which will be held, subject to prior notice, within forty-five (45) days following the date the application is received by the zoning officer and deemed complete. The applicant shall pay additional costs associated with a technical engineering review on behalf of the city. A decision by the planning and zoning commission will be made by a formal action to approve, to approve with conditions, or to deny the application for a WTF permit. Any decision by the planning and zoning commission regarding a WTF permit will be based on the evidence contained in the written record established through the application process.
- C. A variance to the requirements of these regulations may be granted by the planning and zoning commission in the same manner and under the same procedures as an application for a WTF permit. A variance may be requested as part of the initial application for a WTF permit or for a preexisting WTF.

No variance will be granted if it is not in the best interest of the community as a whole, and it will not jeopardize the public health, safety, or welfare. The following conditions may be subject of a variance to the requirements of these regulations:

- 1. The height of the proposed WTF;
 - 2. The setback of the tower or antenna to residential zone district boundaries;
 - 3. Changes to any other dimensional restrictions;
 - 4. The design of the tower or antenna, with particular reference to design characteristics intended to reduce or eliminate the tower's or antenna's visibility;
 - 5. The availability of suitable existing towers or other structures; and
 - 6. Such other factors as may be relevant.
- D. Any aggrieved person or persons affected by a decision made by the planning and zoning commission regarding a WTF permit may appeal to the city council within thirty (30) days after the date of the decision being appealed. Subject to fees and procedures as stated in the Comprehensive Zoning Ordinance for appeal process. The city council shall conduct a public hearing on the appeal within forty-five (45) days following the request for appeal, subject to the prior notice. The city council may, by a majority vote of its members, uphold or reverse the decision of the planning and zoning commission.

(Ord. 2001-18 § 4)

Chapter 17.60 - ADMINISTRATION AND ENFORCEMENT

Sections:

[17.60.010 – Administration and enforcement](#)

[17.60.020 – Conditional use procedures](#)

[17.60.030 – Vaiance procedures](#)

[17.60.040 – Zone change and amendment procedures](#)

[17.60..050 – Annexation](#)

[17.60.070 – Appeals](#)

[17.60.080 – Fees](#)

[17.60.090 – Penalties](#)

[16.60.100 – Interpretation and conflict](#)

17.60.010 - Administration and enforcement.

- A. ~~A zoning enforcement officer~~ A Zoning Enforcement Specialist shall ~~will~~ be appointed by the ~~city council~~ Planning Manager to administer and enforce this title. ~~The zoning enforcement officer shall also serve as the building official authorized to enforce the provisions of the building code of the city.~~
- B. ~~The zoning enforcement officer has the authority to enter all buildings and premises for the purpose of inspection, provided, however, that no dwelling may be entered without the consent of the occupant or owner unless at least twenty four (24) hours' notice of intent to enter has been served upon the occupant or owner.~~ The Zoning Enforcement Specialist is authorized to enter a structure or premise for the purpose of inspection at reasonable times to perform the duties imposed by this title. If the structure or premise is occupied the Zoning Enforcement Specialists shall present credentials to the occupant and request entry. If the structure or premise is unoccupied the Zoning Enforcement Specialist shall make a reasonable effort to locate the owner, or other person having charge, and request entry. If entry is refused, the Zoning Enforcement Specialist shall have recourse to the remedies provided by law to secure entry. The Zoning Enforcement Specialist may institute any appropriate action or proceeding to prevent, correct, or abate a violation of this title. The Zoning Enforcement-~~officer~~ Specialist may institute any appropriate action or proceeding to prevent, restrain, correct, or abate a violation of this title.
- C. No building or structure will be erected, improvements constructed, nor mobilehome installed upon any premises within the city of Belen without being reviewed by the Zoning Enforcement-~~officer~~ Specialist to determine compliance with this title. Building permit applications and plans will be submitted to the ~~Zoning Enforcement-officer~~ Specialist for review and signature before being transmitted to the ~~city~~ Building Inspector with the appropriate building permit fee. No mobilehomes, or manufactured housing, may be located within the city of Belen without obtaining a mobilehome installation permit on a prescribed application form provided by the Zoning Enforcement-~~officer~~ Specialist and accompanied by an administrative fee in accordance with this title. A letter of zoning compliance must be obtained from the city of Belen Zoning Enforcement-~~officer~~ Specialist before applying for connection to public utilities. Property owners will be informed immediately if a zoning action is required.
- D. Whenever, in the course of administration and enforcement of this title, it is necessary ~~to or~~ desirable to make any administrative decision, then, unless other standards are provided in

this title provided, the decision will be made by the Zoning Enforcement officer Planning & Zoning Commission so that the result will not be contrary to the spirit and purpose of this title or injurious to the surrounding neighborhood.

- E. The Zoning Enforcement officer Specialist shall maintain an office to supply the public with any information concerning this title and shall maintain the official Belen zoning atlas in an updated form. A zoning action file shall be established and maintained and shall contain accounts and related records of the following:
1. Conditional use permits;
 2. Variances allowed under this title;
 3. Application for zone changes and amendments;
 4. Certificates of nonconformance;
 5. Zoning appeal;
 6. Building permits;
 7. Violations;
 8. Mobilehome installation permits.

(Ord. 1997-1 (part); Ord. 370 § 19, 1975)

17.60.020 - Conditional use procedures.

- A. No conditional use shall be established in any zone district except upon permit issued by the Planning and Zoning Commission, which shall be guided in making a decision by the criteria set forth in this section. Any person seeking a conditional use permit shall provide to the Planning and Zoning Commission such information as it may reasonably require to determine whether the grant of the requested conditional use permit is consistent with the intent and purpose of this title.
- B. Any request for a conditional use permit shall be submitted to the Planning and Zoning Commission through the Zoning Enforcement officer Planning & Zoning Department on prescribed application forms. ~~The Planning and Zoning Commission shall approve or disapprove the application following consideration at one of its regular meetings.~~ The Planning and Zoning Commission shall conduct a public hearing on each request for conditional use. Public notice shall be given in a newspaper of general circulation in the area at least fifteen (15) days prior to the date of the meeting. Notice of the public hearing, time, date, place and a brief description of the requested conditional use shall be mailed by certified mail, return receipt requested to the owners of land within ~~one hundred (100) feet~~ a minimum of three hundred (300) feet, unless the Planning & Zoning Department deem it necessary to include more, of the exterior boundary of the tract of land where the conditional use is requested.
- C. In considering an application for a conditional use permit, the Planning and Zoning Commission shall not grant any conditional use permit unless satisfactory provision and arrangement has been made concerning the following, where applicable:
1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

2. Off-street parking and loading areas where required, with particular attention to refuse and service areas;
 3. Public and private utilities, with reference to locations, availability, and compatibility;
 4. The economic, noise, glare, or odor effects of the conditional use on adjoining properties; and
 5. General compatibility with adjacent properties and other property in the district.
- D. The following conditional uses are limited to six months duration, at the end of which time such use must be reviewed and a new permit granted in order for it to be continued:
1. Amusement Parks, Carnival, Circus. Conditional use in any A-R, C-1 or M-C zone.
 2. Dwelling, Temporary Watchman or Caretaker. Conditional use in all zones.
 3. Offices, Temporary (Real Estate Sales, Etc.). Conditional use in all zones.
 4. Flea markets as a conditional use in the C-1 and M-C zones, subject to the following requirements:
 - a. There shall be at least two off-street parking spaces per rental stall on the premises;
 - b. Adequate refuse containers shall be provided to control litter;
 - c. Adequate sanitary facilities (restrooms), either portable or permanent, shall be provided on site;
 - d. Sale of animals is prohibited with the exception of dogs, cats, rabbits, birds and other common household pets;
 - e. No merchandise intended for sale shall be stored on site after business hours which shall be between 7:00 a.m. and 6:00 p.m.,
 - f. All tarps, tents or sunshades must be securely attached to prevent a safety hazard and must be removed at daily closing time; and
 - g. A site plan designed in accordance with the above requirements shall be submitted as part of the approval process.
- E. The Planning and Zoning Commission may impose supplementary regulations and special conditions on requests for conditional uses. Any special conditions imposed by the Planning and Zoning Commission shall apply in addition to the district regulations, and shall govern over any less restrictive zoning regulation.

(Ord. 97-18 § 4 (part), 1997; Ord. 1986-3 § 1; Ord. 1986-2 § 2; Ord. 370 § 20, 1975)

17.60.030 - Variance procedures.

- A. The Planning and Zoning Commission may grant a variance from the strict application of area, height, dimension, distance, setback, off-street parking, and off-street loading requirements of this title in the case of exceptional physical conditions where the strict application of the requirements of this title would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of land or building.
- B. A request for a variance shall be submitted to the **Zoning Planning and Zoning Commission through the Enforcement officer Planning & Zoning Department** on prescribed application forms. ~~The planning and zoning commission shall approve or disapprove the variance~~

~~request at one of its regular meetings, or at a special hearing if necessary.~~ Public notice shall be given in a newspaper of general circulation in the area at least fifteen (15) days prior to the date of said meeting. Notice of the public hearing date and a brief description of the requested variance shall be mailed by certified mail, return receipt requested to the owners of land within ~~one hundred (100) feet~~ a minimum of three hundred (300) feet, unless the Planning & Zoning Department deem it necessary to include more, of the exterior boundary of the tract of land where the variance is requested.

- C. The applicant must post and maintain one or more signs on the premises involved, as provided and where instructed by the ~~Zoning Enforcement officer~~ Zoning Enforcement Specialist, at least fifteen (15) days prior to the date of consideration by the Planning and Zoning Commission. The applicant is responsible for removing such signs within five days after the planning and zoning commission issues its decision on the variance request. Failure to properly post signs is grounds for deferral or denial of the application. It is unlawful for any person, except the applicant or an agent for the applicant or the city of Belen, to remove or tamper with any such required sign during the period it is required to be maintained under this paragraph.
- D. The Planning and Zoning Commission may attach any conditions to the grant of a variance in order to assure that the requested variance:
 - 1. Will cause no significant hazard, annoyance or inconvenience to the owners or occupants of nearby property;
 - 2. Will not significantly change the character of the neighborhood or reduce the value of nearby property;
 - 3. Will not impose any significant cost burden upon the city of Belen; and
 - 4. Will be in harmony with the general purpose and intent of this title.

(Ord. 1986-3 § 2; Ord. 370 § 21, 1975)

17.60.040 - Zone change and amendment procedures.

- A.
 - 1. Applications for amendment to the map or text of this title may be made by the owner of record for the property where the zone change is requested, or by the Planning and Zoning ~~Commission~~ Department.
 - 2. Except in the event where a legal lot of record is divided by a zoning district boundary, no request to change the zoning classification on any portion of a legal lot of record shall be considered unless such change will establish a uniform zoning classification for the entire lot.
- B. Amendments to the map or text of this title are initiated by application to the ~~Zoning Enforcement officer~~ Zoning Enforcement Specialist on prescribed forms. Each application for an amendment to the Belen zoning atlas shall be accompanied by the filing fee and a sketch showing the location and dimensions of the property, adjoining property, abutting streets and alleys, and any other related information requested by the Planning and Zoning Commission or the City Council. Applications involving change to a special use zone must include development plans as required in Chapter 17.44 of this title. Submission of inaccurate information with an application is grounds for denial.
- C. Request for all zone changes shall first be examined by the Planning and Zoning Commission in order to determine if they are spot zoning as defined by this title. Any zone

change requests determined by the P planning and Zoning Commission to be spot zoning shall not be given a positive recommendation to the City Council.

- D. The Planning and Zoning Commission shall hold a public meeting to evaluate proposed zone changes or amendments to this title and shall submit a recommendation in writing to the city council. Notice of the public meeting shall be given in a newspaper of general circulation in the area at least fifteen (15) days prior to said meeting.
- E. The Planning and Zoning Commission shall present its written recommendation to the City Council following any application for a zone change or amendment to this title within forty-five (45) days after receipt thereof. The City Council shall begin proceedings to consider such application for a zone change or amendment to this title upon receipt of the written recommendation of the Planning and Zoning Commission.
- F. The City Council shall conduct a public hearing at which all parties in interest and citizens shall have an opportunity to be heard. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the area at least fifteen (15) days prior to the hearing. Whenever a change in zoning is proposed for an area of one block or less, notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners of the land within the area proposed to be changed by a zoning regulation and within ~~one hundred (100) feet,~~ a minimum of three hundred (300) feet, unless the Planning & Zoning Department deem it necessary to include more, excluding public right of way of the area proposed to be changed by the zoning regulation. If the requested zone change is approved by the City Council, such zone change shall be by ordinance. If the requested zone change is for a specific purpose, as set forth in the minutes of the council meeting or zone change application, then the property rezoned shall be utilized for that specific purpose within one year of the effective date of the ordinance or the property rezoned shall revert back to its prior zoning status.
- G. The applicant must post and maintain one or more signs on the premises involved, as provided and where instructed by the ~~zoning enforcement officer~~ Zoning Enforcement Specialist at least fifteen (15) days prior to the date of the public meeting conducted by the planning and zoning commission. The applicant is responsible for removing such signs within five days after the public hearing conducted by the city council is completed. Failure to properly post signs is grounds for deferral or denial of the application. It is unlawful for any person, except the applicant or an agent for the applicant or the city of Belen, to remove or tamper with any such required sign during the period it is required to be maintained under this paragraph.
- H. If the owners of twenty (20) percent or more of the land area proposed to be changed by zoning regulation or the land area within ~~one hundred (100) feet~~ a minimum of three hundred (300) feet, unless the Planning & Zoning Department deem it necessary to include more, excluding public right-of-way, of the land area proposed to be changed by zoning regulation, protest in writing the proposed change shall not become effective unless such change is approved by a majority vote of all members of the City Council.
- I. Supplementary regulations and special conditions may be imposed by the City Council with or without a recommendation from the Planning and Zoning Commission. Conditions attached to a change in zoning districts shall govern over any less restrictive zoning regulation unless specifically provided otherwise. All district regulations not specifically affected by a conditional zoning shall apply in the same manner as if the zoning district were not subject to conditions.

(Ord. 1986-8 § 1; Ord. 1986-6 § 1; Ord. 1986-2 § 1; Ord. 1984-1 § 2; Ord. 370 § 22, 1975)

17.60.050 - Annexation.

- A. Annexation and zoning of land to the city of Belen is may be initiated by application petition to the zoning enforcement officer Planning & Zoning Department on prescribed forms.
- B. Requests for annexation shall first be reviewed by the planning and zoning commission to examine the request for conformance with city policy and to determine the appropriate zoning for the territory to be annexed to the city of Belen. The planning and zoning commission shall hold a public hearing on the request. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the area at least fifteen (15) days prior to the hearing. Notice of the public hearing time, date, place and a brief description of the location and size of the request shall be mailed by certified mail, return receipt requested to the owners of land within one hundred (100) feet a minimum of three hundred (300) feet, unless the Planning & Zoning Department deem it necessary to include more, of the land proposed for annexation and zoning of territory being annexed, excluding easements and public right-of-way. This notice shall be mailed at least fifteen (15) days prior to the date of hearing.
- C. The City Council shall hold a public hearing, at which time the council shall receive the recommendation from the Planning and Zoning Commission on the annexation and determination of the appropriate zone. Further, the City Council of the city of Belen shall receive public comment on the proposed zones. The same public notification procedures required for the public hearing before the Planning and Zoning Commission are required for the public hearing conducted by the City Council.
- D. After the hearing conducted by the City Council of the city of Belen on the annexation request and proposed zoning of territory annexed to the city of Belen, the council shall, by ordinance, designate permanent zones for the annexed territory.

(Ord. 2003-16: Ord. 1986-3 § 3)

17.60.070 - Appeals.

- A. Any person aggrieved by an interpretation, decision or action of the Zoning Enforcement officer Specialist or the Planning and Zoning Commission in administering this title may appeal such interpretation, decision or action to the City Council.
- B. Appeal shall be initiated by application and filing fee to the zoning enforcement officer Planning & Zoning Department on prescribed forms within thirty (30) days of the contested determination made by the Zoning Enforcement officer Specialist or the Planning and Zoning commission.
- C. Decision on an appeal shall be made by the City Council following a public hearing. Public notice of an appeal hearing shall be given in the same manner as prescribed for a zone change in this title. The City Manager shall give written notice of an appeal, together with a notice of the date, time, and place of hearing to the applicant, each member of the Planning and Zoning Commission, and a representative of the opponents, if any. An appeal shall be decided within three months of the date of its filing.
- D. The concurring vote of at least two-thirds of the members of the City Council is required to reverse a determination made by the Zoning Enforcement officer Specialist or the Planning and Zoning Commission.

(Ord. 370 § 23, 1975)

17.60.080 - Fees.

- A. Variances, conditional use permits, zone changes, amendments, appeals and mobilehome installation permits shall not be considered until there is first paid a fee as required below, except that such fee shall not be required where the City of Belen or any official or body thereof is the moving party. The amount of required fees is as follows:
1. For consideration of a variance application, one hundred fifty dollars (\$150.00);
 2. For consideration of a conditional use permit, one hundred fifty dollars (\$150.00);
 3. For consideration of zone changes and amendments to this chapter, two hundred fifty dollars (\$250.00);
 4. For consideration of an appeal to the city council under the provisions of this chapter, one hundred dollars (\$100.00);
 5. For consideration of mobile/ manufactured homes on a permanent foundation an installation permit fee of two hundred fifty dollars (\$250.00);
 6. For consideration of mobilehome parks, rental spaces for mobilehomes, recreational vehicles and camping trailers, an installation permit fee of twenty-five dollars (\$25.00).
- B. When an application is withdrawn after advertising for public hearing, the filing fee shall not be refunded.

(Ord. 2006-09 (part): Ord. 1997-1 (part))

17.60.090 - Penalties.

Any person violating any of the provisions of this title shall **upon conviction** be subject to a fine not exceeding three hundred dollars (\$300.00) or imprisonment for a period not exceeding ninety (90) days, or both such fine and imprisonment. Any violation continued for a period of fifteen (15) days after conviction shall be prosecuted and treated as a separate offense.

(Ord. 370 § 25, 1975)

17.60.100 - Interpretation and conflict.

The provisions of this title are held to be minimum requirements to carry out the purpose of this title and are not intended to interfere with, abrogate, or annul any easement, covenant, or other valid ordinance except that which is described by the repeal section of this title. Where this title imposes a greater restriction than is required by existing regulations, easements, covenants, agreements, or ordinances, the provisions of this title shall control. Regardless of any other provision of this title, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

(Ord. 370 § 26, 1975)