

# Town of Peralta

## Comprehensive Zoning Ordinance Number 2007-09, Amendment Two (2)

An Ordinance Amending Ordinance 2007-09, Dated 12 December 2007 to  
Ordinance 2007-09, Amendment Two (2), Dated 24 October 2017

Be it ordained by the governing body of the Town of Peralta, New Mexico as follows:

### TABLE OF CONTENTS

<u>SECTION 1.</u>	<u>TITLE</u>
<u>SECTION 2.</u>	<u>PURPOSE</u>
<u>SECTION 3.</u>	<u>APPLICABILITY</u>
<u>SECTION 4.</u>	<u>DEFINITIONS</u>
<u>SECTION 5.</u>	<u>GENERAL PROVISIONS</u>
<u>SECTION 6.</u>	<u>ZONE DISTRICT BOUNDARIES</u>
<u>SECTION 7.</u>	<u>R-A AGRICULTURAL RESIDENTIAL DISTRICT</u>
<u>SECTION 9.</u>	<u>R-N NEIGHBORHOOD RESIDENTIAL ZONE</u>
<u>SECTION 10.</u>	<u>C-B COMMERCIAL BUSINESS ZONE</u>
<u>SECTION 11.</u>	<u>S-U SPECIAL USE ZONE</u>
<u>SECTION 12.</u>	<u>PERALTA HISTORIC DISTRICT (RESERVED)</u>
<u>SECTION 13.</u>	<u>HIGHWAY 47 DESIGN OVERLAY ZONE (RESERVED)</u>
<u>SECTION 14.</u>	<u>STREET PARKING</u>
<u>SECTION 15.</u>	<u>ADMINISTRATION</u>
<u>SECTION 16.</u>	<u>DEVELOPMENT REVIEW</u>

**SECTION 17. SITE DEVELOPMENT PLANS**

**SECTION 18. NONCONFORMANCE CERTIFICATE**

**SECTION 19. CONDITIONAL USE PERMIT**

**SECTION 20. VARIANCES**

**SECTION 21. AMENDMENTS**

**SECTION 22. APPEALS**

**SECTION 23. ADMINISTRATIVE FEES**

**SECTION 24. PENALTIES**

**SECTION 25. SEVERABILITY**

**SECTION 1. TITLE:**

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

**SECTION 2. PURPOSE:**

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

**SECTION 3. APPLICABILITY:**

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

#### SECTION 4. DEFINITIONS:

- A. **Word Forms.** Words used in the present tense including the future tense, and words used in the future tense include the present tense. The singular number includes the plural number and the plural number includes the singular number. The words “shall” and “must” are mandatory and the word “may” is permissive.
- B. **Definitions.** For the purpose of this Ordinance, standard dictionary definitions are used except for certain words or phrases used herein which shall be defined as follows:

**“Accessory”** means subordinate and incidental to a principle use or structure on the premises.

**“Boarding, Rooming, or Lodging House”** means a building other than a hotel, motel, or restaurant where lodging, with or without meals, is provided for compensation. Such building shall not contain more than five (5) guest rooms. This definition includes a “Bed and Breakfast” enterprise.

**“Building”** means a structure, of temporary or permanent construction, having a roof and intended to be used for sheltering people, animals, property, or business activity.

**“Code Enforcement Officer”** means an appointee of the Town Council who shall administer the provisions of this Ordinance.

**“Conditional Use”** means a use which may be or become a nuisance or hazard to neighboring properties if proper safeguards are not taken. Conditional use requires a permit following review and approval by the Town.

**“Contiguous”** means touching or separated only by a public right-of-way.

**“Dwelling, Multiple”** means a structure containing two (2) or more dwelling units.

**“Dwelling, Singular”** means a dwelling unit which is not physically connected to any other dwelling units.

**“Dwelling Unit”** means any structure or part of a structure containing one or more connected rooms to be occupied by one family for living and sleeping purposes. A dwelling unit may include manufactured housing, modular units, or site-built housing.

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

**“Family Care Facility”** means an occupied dwelling used for care for one or two residents, not a relative of the resident family and not under court ordered guardianship of a member of the resident family; it is licensed as a Family Care Home by the State of New Mexico and provides services as outlined for Adult Residential Shelter Care or Board and Care Homes in New Mexico Health and Environment Department regulations; care is provided 24 hours per day.

**“Floor Area”** means the total gross area of all floors of a building, expressed in square feet measured from the outside surface of exterior walls.

**“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”** means the vertical distance measured from the lowest ground elevation to the highest point on a structure. When applied to buildings, height means the vertical distance from the grade to the highest point of the roofline.

**“Home Occupation”** means a business or commercial activity which is conducted within a dwelling unit or an accessory structure within a residential zone district, and which is clearly secondary to the residential use of the premises.

**“Lot”** means a tract or parcel of land platted and placed on the Valencia County Clerk’s record in accordance with laws and ordinances and with access to public right-of-way.

**“Lot Area”** means the area contained within the boundary lines of the lot.

**“Lot, Corner”** means any lot bordering on two (2) or more streets at their intersection.

**“Lot, Double Frontage”** means any lot bordering on two (2) parallel of approximately parallel streets.

**“Lot Line, Front”** means the boundary line of a lot bordering on a street or public right-of-way.

**“Lot Line, Rear”** means the boundary line of a lot which is opposite and most distant from the front lot line and does not connect to the front lot line.

***“Lot Line, Side”*** means any lot boundary which is not a front lot line or a rear lot line.

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

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

***“National Flood Insurance Program”*** means the Federal program promulgated by the National Flood Insurance Act of 1968 and the Flood Protection Act of 1973.

***“Nonconforming Uses, Lots, or Structures”*** means any building, structure or portion thereof, or use of any building or land which does not conform to the regulations of this Ordinance and which lawfully existed on the effective date of the regulations to which it does not conform.

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

***“Parking, Off-Street”*** means an area on a lot used for required parking of motor vehicles as regulated by this Ordinance.

***“Permissive Use”*** means any use authorized in a particular one district established by this Ordinance.

***“Person”*** means any individual, estate, trust, receiver, association, club, corporation, company, firm, or other entity.

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

**“Premises”** means any lot or combination of contiguous lots held in single ownership, together with the development thereon.

**“Pre-incorporation”** an allowable use or existing structure that existed prior to the Incorporation of the Town of Peralta.

**“Public Right-of-Way”** means a strip of land intended for use as a thoroughfare which has been dedicated to the public by deed, or reserved by plat, or otherwise acquired by the Town, County, State, or Federal Government.

**“Recreational Vehicle”** means a vehicle which is designed or used as temporary living quarters for recreation, camping, or travel, and which may be a self-propelled motor vehicle or designed to be towed or mounted on a motor vehicle.

**“Setback”** means the minimum allowable distance between any building and the nearest line of the lot upon which it is located, consisting of open space, and unoccupied by any structure except as otherwise provided in this Ordinance. Walls, fences, signs, and public utility poles are exempt from setback restrictions.

**“Setback, Front”** means the minimum allowable distance between any building and the front line of the lot on which such building is located. No more than one front setback shall be designated on corner lots or double frontage lots.

**“Setback, Rear”** means the minimum allowable distant between any building and the rear lot line of the lot on which such building is located. On double frontage lots, the rear setback shall be designated on the opposite side of the lot from the designated front setback.

**“Setback, Side”** means the minimum allowable distance between any building and a side lot line of the lot on which such building is located. On corner lots, a side setback shall be designated along one of the lot lines bordering a road or street.

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

**“Structure”** means anything constructed or erected with a permanent location on the ground, or attached to something having a permanent location on the ground.

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

**“Town”** means the Town of Peralta, Valencia County, New Mexico

**“Town Council”** means the governing body of the Town of Peralta.

**“Town Clerk”** means the municipal clerk of the Town of Peralta as so designated by Town Council.

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

**“Vehicle”** means a mechanical device for transporting people or property on a road or highway with the exception of devices moved by human or animal power.

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

#### **SECTION 5. GENERAL PROVISIONS:**

- A. **Access to structures.** All structures shall be located on lots in a manner which will provide safe and convenient access for servicing, fire protection, and any required off-street parking or loading.
- B. **Accessory Buildings.** One (1) or more accessory buildings may be placed on a lot provided that no accessory building will exceed the floor area of the building which is the principal use on the premises, and further provided that no accessory building will be located closer than ten (10) feet from any other buildings on contiguous lots.
- C. **Building and Structure Height.** No building or structure shall exceed thirty-five (35) feet in height. However, this height limitation shall not apply to water tanks, wind generators, antennas, and dish receivers, solar collectors, and other such accessory objects, but excluding signs.
- D. **Home Occupations.** Any activity defined by this Ordinance as a home occupation shall be subject to the following requirements:
  - 1. Only members of the residing family and no more than one (1) other person shall be engaged in the home occupation;
  - 2. There shall be no exterior indication of the home occupation except for one (1) non-illuminated sign that is no larger than five (5) square feet in area;

3. Exterior storage of materials and equipment necessary for the home occupation is allowed only if is surrounded by a solid wall or fence sufficient to provide a visual barrier to contiguous residential properties;
  4. Not more than twenty-five (25) percent of the floor area of the dwelling unit shall be devoted to the home occupation, nor more than eight-hundred (800) square feet floor area of an accessory building; and
  5. No equipment of process shall be used in a home occupation which discharges hazardous materials or creates a nuisance such as noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses, off the premises.
- E. Manufactured Housing Installation and Placement. Installation: Regardless of any setback regulations provided in this Ordinance, no manufactured housing units shall be located within twenty (20) feet of any other dwelling unit. Manufactured housing shall be limited to residential use only. Within thirty (30) days following occupancy, manufactured housing shall be connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored in accordance with regulations promulgated by the Manufactured Housing Act of New Mexico (60-14-1 et. Seq. NMSA 1978. All mobile homes and manufactured housing shall be placed on a permanent concrete and continuous frost-protected perimeter as regulated by the New Mexico Construction Industries (NMCID) Manufactured Housing Division and shall be compatible and harmonious with existing structures in the vicinity. Placement: No manufactured housing unit will be allowed placement without obtaining all applicable permits, i.e., Septic Approval from New Mexico Environment Department (NMED), Town approved foundation plan, Town approved site plan and set-backs, rental agreement from land owner (if applicable), Flood Plain Certificate and Moving Permit shall be obtained from the Valencia County Flood Plain Manager. A check off list is available at the Town Office. Manufactured housing units will follow all applicable permit requirements on NM CID Manufactured Housing Division, and Town of Peralta zoning restrictions and in some cases, may need approval of the Town of Peralta P & Z Commission. Fines of up to \$500.00 per incident may be imposed, for property owner, mobile home owner, transporter and/or both/all, if these requirements are not met.
- F. Political Signs. Signs relating to a political campaign prior to an election may be permitted on any private and/or authorized lot provided such signs shall not be placed more than thirty (30) days prior to the official date of the election, excluding early voting dates and shall be removed within five (5) days following the election. If after five (5) days the signs are still up, town personnel will take down the sign(s) and store them and will fine the candidate \$50.00 per sign remaining.



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

1. Appropriate to the activity that displays them;
2. Expressive of the identity of individual activities and the community;
3. Legible in the circumstances in which they are seen;
4. Maximum size of 4' x 8', including political signs;
5. No higher than 35 feet in the air to the top of the sign;
6. Not obstructing the visibility of traffic in any manner; and
7. Not on a property without permission of the property owner.
8. Billboards that existed prior to incorporations will be allowed. No new billboards shall be allowed.

H. Refuse Disposal. All persons owning or occupying lands within the Town shall be responsible for the sanitary conditions of their premises. No person shall permit or cause accumulation of refuse, garbage, trash, or other solid waste which may become hazardous to public health or safety, or which obstructs traffic, drainage, or access to structures.

I. Storm water Retention. Site design on all substantially improved or developed lots shall ensure that storm water runoff will not adversely affect neighboring properties. Runoff as a result of development or site improvements shall be retained locally.

J. Vision Clearance. At all road or street intersections, no obstructions to view shall be placed or maintained between two (2) feet and eight (8) feet above the roadway level in a triangular space at the road or street corner on a corner lot. Such triangular space shall be bounded by the corner property lines and a diagonal line connecting points that are twenty-five (25) feet in distance from the property line intersection.

- K. Recreational Vehicles. Recreational vehicles (RVs) shall not be used as a primary residence. The Planning and Zoning Commission may consider the temporary use of a Recreational Vehicle only while a principal home is being constructed.

**SECTION 6. ZONE DISTRICT BOUNDARIES:**

- A. Districts. In order to carry out the provisions of this Ordinance, the Town of Peralta is hereby divided into zone districts which are described in the following sections. The regulation prescribed in this Ordinance shall apply within the corporate limits of the Town of Peralta.
- B. Zoning Map. The boundaries of all districts within the Town of Peralta are hereby established as shown on the PERALTA ZONING MAP which shall be made a part of this Ordinance as is fully described herein.
- C. Interpretation. Where due to the scale, lack of detail, or illegibility of the official PERALTA ZONING MAP, there is any uncertainty, contradiction, or conflict as to the intended location of any zone district boundaries shown therein, interpretations concerning the exact location of zone district boundary lines, shall be determined by the Town Council with the advice of the Planning & Zoning (P & Z) Commission.
- D. Multiple-Zoned Lots. Circumstances may justify the need to designate more than one (1) zone district on a single lot. In such cases, zone district boundaries with a multiple-zoned lot shall be more fully described in the PERALTA ZONING MAP by showing any necessary dimensions of zone districts in relation to existing property lines.
- E. Annexation. Any request or proposal of territory to the Town of Peralta shall be filed and processed concurrently with an application for an amendment to the PERALTA ZONING MAP as provided in this Ordinance. Zoning within annexed areas must be consistent with contiguous zoning, or must be in accordance with the Comprehensive Plan of the Town of Peralta.

**SECTION 7. R-A AGRICULTURAL RESIDENTIAL DISTRICT:**

- A. Intent. The purpose of this zone district is to maintain and preserve agricultural activities, and to provide for accompanying residential uses which are compatible with agricultural activities. Residential density shall not exceed one (1) dwelling unit per minimum five (5) acre lot, unless otherwise provided in this Ordinance.

B. Permissive Uses. Any of the following permissive uses are allowed in this one district:

1. One (1) singular dwelling unit per lot;
2. Accessory uses and structures;
3. Agricultural activities, including the cultivation and harvesting of croplands, and the raising and management of livestock and fowl in accordance with the following requirements:
  - a. Confinement areas for livestock and fowl shall be constructed and maintained to discourage the concentration and breeding of insects and rodents which are detrimental to human health;
  - b. Surface water runoff shall be contained on site and controlled to avoid overflow into irrigation ditches and surrounding property;
  - c. Animal waste shall be properly disposed to prevent contamination of ground water and surface water;
  - d. The display and sale of agricultural products shall be confined to a temporary stand located on the premises; and
  - e. Yard sales limited to no more than 3 consecutive days per calendar month.

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

1. Home occupations;
2. Kennels and animal grooming parlors;
3. Greenhouses used for commercial business (excluding temporary hoop houses), nursery or landscaping services;
4. The processing and packaging of goods from agricultural products and/or agricultural by-products.

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

1. Minimum lot size shall be five (5) acres;
2. Setbacks shall be maintained as follows:

- a. Front setback shall be no less than thirty (30) feet;
  - b. Side setback shall be no less than ten (10) feet;
  - c. Rear setback shall be no less than twenty (20) feet; and
3. Off-street parking spaces as required by this Ordinance.

**SECTION 8. R-R RURAL RESIDENTIAL ZONE:**

- A. Intent. The purpose of this zone district is to provide for the development of Rural Residential areas consisting of singular dwellings and certain other uses which are compatible to the rural character of this district. Residential density shall not exceed one (1) dwelling unit per minimum two (2) acre lot, unless otherwise provided in this Ordinance
- B. Permissive Uses. Any of the following permissive uses are allowed in this one district:
  1. One (1) singular dwelling unit per lot;
  2. Accessory uses and structures, or uses, subject to the provisions of this Ordinance;
  3. Family Day Care Home or Family Care Facility, and veterans, seniors and special needs facilities provided the activity is licensed by the State of New Mexico as such;
  4. Storage of a recreational vehicle provided it is not used as additional living quarters and is not permanently connected to utilities. Recreational vehicles shall not be stored within the front setback of a lot for a time period exceeding twenty-four (24) hours.
  5. Public utility structure, provided its location is based on appropriate master plan that has been approved by the Town Council;
  6. Public parks and recreation areas;
  7. Agricultural activities, subject to the requirements of Section 7.B.3
  8. Yard sales limited to no more than 3 consecutive days per calendar month.

- C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the P & Z Commission in accordance with this Ordinance:
1. Boarding, rooming, or lodging house;
  2. Home Occupation, subject to provisions of this Ordinance;
  3. Church or other religious building used as a place of worship; and
  4. School, public, or private, with incidental facilities, provided that a development plan for the site has been approved by the Town Council; and
  5. Subject to reasonable conditions set by the P&Z, including, but not limited to, adequate sewer and approved utilities, a temporary second residence for special circumstances only for the care of elderly relative(s) approved only by the P&Z, subject to a duration of time not exceeding five-years, which may be extended by the P&Z under extenuating circumstances. The temporary second residence, under any circumstances shall not be utilized as a rental property or for any other purpose or as a permanent residence.
- D. District Standards. The following regulations apply to all land uses in this zone district:
1. Minimum lot size shall be two (2) acres;
  2. Setbacks shall be maintained as follows:
    - a. Front setback shall be no less than thirty (30) feet;
    - b. Side setback shall be no less than ten (10) feet;
    - c. Rear setback shall be no less than ten (10) feet; and
  3. Off-street parking spaces as required by this Ordinance.

#### **SECTION 9. R-N NEIGHBORHOOD RESIDENTIAL ZONE:**

- A. Intent. The purpose of this zone district is to accommodate a suburban residential density of development and limited nonresidential uses which are compatible to the residential character of this district. Residential density shall not exceed one (1) dwelling unit per minimum one (1) acre lot, unless otherwise provided in this Ordinance.

- B. Permissive Uses. Any of the following permissive used are allowed in this zone district:
1. All uses permissive in the R-R zone district.
- C. Conditional Uses. The following uses may be allowed in this zone district only upon permit granted by the P & Z Commission in accordance with this Ordinance:
1. All uses conditional in the R-R zone district;
  2. Medical clinic or dental office;
  3. Laundromat;
  4. Personal services (barber/beauty shop, physical therapy, etc.)
- D. District Standards. The following regulations shall apply to all land uses in this zone district:
1. Minimum lot size shall be one (1) acre;
  2. Setbacks shall be maintained as follows:
    - a. Front setback shall be no less than thirty (30) feet;
    - b. Side setback shall be no less than ten (10) feet;
    - c. Rear setback shall be no less than ten (10) feet; and
  3. Off-street parking spaces as required by this Ordinance.

#### **SECTION 10. C-B COMMERCIAL BUSINESS ZONE.**

- A. Intent. The purpose of this zone district is to provide for major commercial and business activities in the community. This zone district establishes a commercial corridor and includes highway-related commercial activities, offices, entertainment facilities, retail sales, and service providers. It is further intended that a special character of development in this zone district is promoted and maintained along NM Highway 47, particularly where historical and cultural elements can be preserved, enhanced, or simulated. Exterior building surfaces facing NM Highway 47 in this zone district shall be constructed of wood, stucco, brick, stone, adobe, or similar materials, rather than metal, plastic siding, mirrored glass curtain walls, and other such materials that are not characteristic of the community.

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

1. All uses permissive in the R-N zone districts;
2. Retail Commercial establishments;
3. General and professional offices;
4. Business and personal services; and
5. Banking and financial services.

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

1. All uses conditional in the R-N, R-R and R-A zone districts:
2. Hotels and motels;
3. Eating and drinking establishments, including mobile food trucks if they comply with all Federal and State Regulations;
4. Funeral homes and crematories if they comply with Federal and State Regulations;
5. Government facilities;
6. Motor vehicle services, including commercial garages, provided that:
  - a. Any repair work shall be conducted entirely within an enclosed building;
  - b. Outdoor storage of materials shall be enclosed by a solid wall or fence sufficient to provide a visual barrier;
  - c. Outdoor storage of vehicles awaiting repair and/or delivery shall be limited to no more than three vehicles per enclosed service bay;
7. Kennel, veterinary hospital, animal grooming parlor, or pet sales store;
8. Small scale processing operations associated with a commercial business establishment, provided that all processing activities are conducted within a building and shall not produce off-site impacts which would be disruptive to contiguous properties or harmful to the environment;

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

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

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

#### **SECTION 11. S-U SPECIAL USE ZONE.**

- A. **Intent**. This zone district provides for types of developments which required special consideration because of their magnitude, unusual nature, infrequent operations, questionable impact on surrounding property, or other similar reason. The boundaries of this zone district shall be defined as needed on a case-by-case basis and shall be designated by the Town Council following the amendment procedures provided in this Ordinance. Special conditions may be imposed by the Town Council giving consideration to any recommendation by



the P & Z Commission. The Town Council may not grant a zone change for the establishment of a Special Use Zone district unless the following satisfactory provisions have been made:

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

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

**SECTION 12. PERALTA HISTORIC DISTRICT (RESERVED).**

## SECTION 13. HIGHWAY 47 DESIGN OVERLAY ZONE (RESERVED)

### SECTION 14. STREET PARKING.

- A. Off-Street Parking Requirements. Whenever any new building or structure is erected, off-street parking spaces shall be provided on the premises in accordance with this Ordinance. Existing buildings or structures need to supply the required off-street parking spaces only to the extent that open space is available on the premises. Parking spaces may be located on any portion of the lot but shall not obstruct on-site circulation or access to the premises. Unless authorized by the Town of Peralta, parking is not allowed within the public right-of-way.
- B. Required Parking Spaces. The minimum number of off-street parking spaces to be provided on premises shall be as follows:
1. Banks, offices, service establishments, and retail businesses require one (1) space per three-hundred (300) square feet of floor area;
  2. Bowling alleys require four (4) spaces per alley;
  3. Clubs, lodges, and fraternal organizations required one (1) space per two-hundred (200) square feet of floor area;
  4. Eating and drinking establishments require one (1) space per one-hundred (100) square feet of floor area; Industrial, manufacturing, and wholesaling establishments require one (1) space per two (2) employees on the largest shift;
  5. Laundromats require one (1) space per three (3) washing machines;
  6. Medical clinics and dental offices require five (5) spaces per doctor;
  7. Hotels, motels and other lodging facilities require one (1) space per unit and one (1) space per two (2) employees on the largest shift;
  8. Places of public assembly, including churches, community centers. Theaters, and gymnasiums require one (1) space per four (4) seats when fully occupies;
  9. Residential buildings and manufactured housings required two (2) spaces per dwelling unit.

- C. Mixed Uses. For mixed uses on the premises, the total requirements for off-street spaces shall be the sum of the fractional requirements of the various uses computed separately.
- D. Parking Design Standards. The following standards shall be applied to the required off-street parking areas:
1. All parking areas must have access to a public right-of-way;
  2. All driveway entrances shall be at least thirty (30) feet wide to facilitate vehicular turning into the parking area;
  3. Each parking space shall consist of an area not less than nine (9) feet by twenty (20) feet.
  4. On non-residential premises, two percent (2%) of the spaces, but not less than one (1) space, shall be set aside for the handicapped or mobility impaired. Handicapped parking spaces shall consist of an area of not less than twelve (12) feet by twenty (20) feet. All parking spaces for the handicapped shall be prominently marked for use by the international symbol of accessibility. Walkways from handicapped parking spaces to destination buildings shall be constructed to meet the standards of the Americans with Disabilities Act (ADA).

## **SECTION 15. ADMINISTRATION.**

- A. Administrative Official. The Council shall appoint a Code Enforcement Officer to administer the provisions of this Ordinance. The Code Enforcement Officer may also serve in some other capacity as an employee or appointed official of the Town of Peralta.
- B. Inspection. The Code Enforcement Officer has the authority to conduct an inspection of buildings, structures, and the use of land to determine compliance with this Ordinance. This provision does not grant right to entry without due process, if necessary. The Code Enforcement Officer shall provide for on-site inspections and other relevant information which may be requested by the Town Council or the P & Z Commission as necessary to carry out the purpose of this Ordinance.
- C. Violations: Complaints and Notifications. The Code Enforcement Officer may institute any appropriate actions of proceedings whenever there is probable cause to believe there is a violation of this Ordinance. Any person aggrieved by an apparent violation of this Ordinance shall file a written complaint with the Code Enforcement Officer who shall immediately investigate the complaint to determine if a violation of this Ordinance is found to exist. Whenever the Code

Enforcement Officer finds probable cause to believe that a violation of this Ordinance exists, whether acting on independent initiative or in response to a complaint, the Code Enforcement Officer shall notify the person responsible for the alleged violation in writing. The notification shall order the necessary correction to be made within sixty (60) days following the date of notification. Any person who fails to comply with the notification order shall be subject to penalties as stated in this Ordinance.

D. Information and Records. The Town shall maintain an office to supply the public with information concerning this Ordinance and shall maintain the official PERALTA ZONING MAP in an update form. A “Zoning Action File” shall be maintained and shall contain records which include the following categories:

1. Amendments to the Zoning Ordinance and Maps;
2. Building Permit Applications (Copies endorsed by Town);
3. Conditional Use Permits;
4. Manufactured Housing Installations;
5. Nonconformance Certificates;
6. Site Development Plans;
7. Variances allowed under this Ordinance;
8. Zoning Appeals;
9. Zoning Violations

## **SECTION 16. DEVELOPMENT REVIEW.**

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

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

## **SECTION 17. SITE DEVELOPMENT PLANS.**

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

2. A pre-submittal conference with the landowner or developer shall be conducted by the Code Enforcement Officer within fifteen (15) days following the date of the written request for a site development plan. The purpose of the pre-submittal conference is to provide advice and assistance in the preparation of a site development plan. Specific requirements of components of a site development plan that are deemed unnecessary may be waived at this pre-submittal conference.
3. A site development plan shall be submitted to the Code Enforcement Officer no later than ninety (90) days following the date of the pre-submittal conference.
4. Upon receipt of the site development plan, the Code Enforcement Officer shall review the plan for compliance with this Ordinance, and when deemed complete, the site development plan shall be placed on the agenda of the next regularly scheduled meeting of the Town Council.
5. Following the presentation of the site development plan to the Town Council, a decision to approve, approve with conditions, or disapprove the site development plan must be rendered within sixty (60) days after the date of the Town Council meeting in which the site development plan was presented.
6. Reasons for any disapproval of a site development plan shall be provided in writing to the landowner or developer submitting the site development plan. A revised development plan may be resubmitted to the Town Council within sixty (60) days following the date of the decision of disapproval.

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

1. Name and address of person or agent proposing the development;
2. Legal description of the site, current ownership of all lands included in the proposed development, and current zoning of the proposed development site and contiguous properties;
3. A site plan on a map, drawn to scale of 1-inch to 20-feet (or an appropriate scale as determined by the Town Council), showing all property lines, and the locations, dimensions, and purposes of all buildings and structures, existing and proposed, within the development plan area and contiguous properties;
4. The location and dimensions of all contiguous streets or roads, on-site utility easements indicating their purpose, pedestrian circulation patterns, and parking and loading areas, both existing and proposed;

5. Existing and proposed site topography at 2-foot contour intervals (or other contour intervals as determined by the Town Council);
6. A description preexisting drainage problems of flooding history on the site, currently designated floodplains such as vegetation and landscaping, storm water runoff and catchment areas, and soils alteration;
7. Existing and proposed location and dimensions of on premise signs, visual screening or noise buffering devices, and other structures such as telecommunications antennas or dishes; and
8. A schedule of expected development.

#### **SECTION 18. NONCONFORMANCE CERTIFICATE.**

- A. Definition. Within the zone districts established by this Ordinance, or subsequent amendments hereto, there exists lots, structures, and uses of land and structures, which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or subsequent amendment. Such lots, structures or uses are nonconformities. It is the intent of the Ordinance to allow nonconformities to continue. However, as nonconformities are discontinued or removed, structures and future uses where these nonconformities previously existed will be required to be in Compliance with this Ordinance.
- B. Nonconformance Certificate. Nonconformities, upon discovery, shall be issued a Nonconformance Certificate by the Code Enforcement Officer in accordance with the procedures established by this Ordinance. Upon receipt of a written notification from the Code Enforcement Officer, it shall be the responsibility of the owners of nonconforming property to apply to the Code Enforcement Officer for a Nonconformance Certificate within sixty (60) days after the date of notification. Failure to accept the Nonconformance Certificate within sixty (60) days after the date of notification. Failure to accept the Nonconformance Certificate under the provisions of this Ordinance shall be considered a violation of this Ordinance.
- C. Expansion. A nonconformity shall not be enlarged, expanded, or extended. However, the addition of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this Ordinance shall not be deemed an extension of the nonconformity.
- D. Abandonment. Whenever a nonconformity has been discontinued or abandoned for a period of one (1) year or more, that conformity shall not be reestablished, and any future use shall be in conformance with the provisions of this Ordinance.



- E. Restoration. If a nonconformity is damaged or destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, then restoration must be for a permitted use.
- F. Nonconforming Lot Size. Any lot of record existing prior to the effective date of this Ordinance, which fails to meet the minimum area requirements, may be developed or improved provided that setback and other requirements of the lot are in conformance with the provisions of this Ordinance. A Nonconformance Certificate will not be required for nonconforming lots.
- G. Nonconforming Structure. Any structure built prior to the effective date of this Ordinance when it was originally written (12/12/07), or subsequent amendment which fails to meet the requirements for setback and parking will not require a Nonconformance Certificate; but is still considered a nonconformity subject to any other regulations in this Ordinance.
- H. Vested Rights. Nothing in this Ordinance shall require any change in plans, construction, or designated use of a building for which a building permit has been issued prior to enactment of this Ordinance, or amendments hereto.
- I. Multigenerational Housing. Where an existing manufactured housing unit and/or mobile home is pursuant to NM State Multigenerational Statute 3-21-1(F) and is currently a non-conformity, it shall be allowed to be replaced in the same location and connected to existing utilities. The installation must comply with all manufacture housing and/or mobile home and Local and State Codes and Ordinances.

#### **SECTION 19. CONDITIONAL USE PERMIT.**

- A. Permit Required. Conditional uses that are established by this Ordinance shall not be allowed except upon the review and approval for a permit issued by the P & Z Commission, which shall be guided in making a decision by the criteria set forth in this section.
- B. Application. Any request for a Conditional Use Permit shall be submitted with an administrative fee to Town of Peralta staff on a prescribed application form obtainable at the Town offices. The Code Enforcement Officer or Town of Peralta Staff shall transmit the completed application and any supplementary information to the P & Z Commission for review and consideration at their next scheduled meeting. To the extent possible, all contiguous property owners shall be notified of the P & Z Commission meeting at which the Conditional Use Permit application will be considered for approval.

C. Guidelines. A Conditional Use Permit shall not be approved unless satisfactory provisions have been made concerning the following issues, where applicable:

1. Accessibility to the property and proposed structures on the premises, with particular reference to vehicular and pedestrian safety, traffic control, off street parking, and emergency access in case of fire, flood, or catastrophe;
2. If applicable, connections to water and sewer services and other public utilities, with reference to necessary easements or dedications;
3. Storm water drainage control and flood protection with reference to the National Flood Insurance Program;
4. Solid water management systems and the potential for hazardous waste;
5. The economic, noise, glare, odor effects of the Conditional Use on contiguous properties; and
6. General compatibility with contiguous properties and other properties in the area.

D. Limitations. Conditional Use Permits issued in accordance with the requirements of this Ordinance shall be considered permanent, with the following exceptions:

1. For any conditional uses that have an exceptional tendency, because of their nature or character, to create an adverse impact on neighboring properties, the P & Z Commission may limit the term of the permit to a specified length of time after which the permit shall expire and may be renewed. An application for renewal of the Conditional Use Permit may be submitted and processed in the same manner as the original application, with a reduced administrative filing fee.
2. Where there has been a significant change in the physical extent, operations, or character of a permitted conditional use, the P & Z Commission may require a renewal of the original Conditional Use Permit. Significant change shall be determined by the P & Z Commission based on the scheduled review of the Conditional Use Permit.
3. An approved Conditional Use Permit shall become void one year after the date of approval if the rights and privileges granted thereby have not been utilized.
4. An approved Conditional Use Permit shall become void if, after the use has begun, it ceases on the approved site for a contiguous period of one (1) year or more.

## **SECTION 20. VARIANCES.**

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

## **SECTION 21. AMENDMENTS.**

- A. **Authority.** The Town Council may **amend** or change any of the regulations, procedures, or zone district boundaries established by this Ordinance.
- B. **Application.** Any request for an amendment to this Ordinance shall be submitted with an administrative fee to the Code Enforcement Office on a prescribed application to be obtained at the Town office. An application may be initiated by the Town acting on behalf of the community at large. The Code Enforcement Officer shall transmit the completed application and any supplementary information to the P & Z Commission for review at their next scheduled meeting. The P & Z Commission shall prepare and transmit a recommendation in writing to the Town Council within seven (7) days after their review of the proposed amendment is completed. To the extent possible, all contiguous property owners of any land proposed for a zone change shall be notified of the P & Z Commission meeting at which the zone change will be reviewed for recommendation to the Town Council.

- C. Public Hearing. Upon receipt of the written recommendations of the P & Z Commission, the Town Council shall call for a public hearing in which to make its decisions on an application for amendment to this Ordinance. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the Town at least fifteen (15) days prior to the hearing. The Town Council shall conduct the public hearing, at which all parties shall have an opportunity to submit data, views, or arguments, orally and in writing, and to examine witnesses testifying at the hearing. A record of the public hearing shall be kept.
  
- D. Notification by Mail. Whenever a zone change is proposed for an area of one (1) block or less, notice of public hearing shall be mailed by certified mail, return receipt requested, to the owners of land within the area proposed to be changed by a zoning regulation and within one-hundred (100) feet, excluding public right-of-way, of the area proposed to be by a zoning regulation. Whenever a zone change is proposed for an area of more than one block, notice of the public hearing shall be mailed by first class mail to the owners of land located within the are proposed to be changed by a zoning regulation and within one-hundred (100) feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation. If any notice by first class mail is returned undeliverable, the Town shall attempt to discover the owner's most resent address and shall remit the notice by certified mail, return receipt requested.

## **SECTION 22. APPEALS.**

- A. Right of Appeals. Any person aggrieved by a decision of the Code Enforcement Officer or the P & Z Commission in carrying out the provisions of this Ordinance may appeal the decision to the Town Council. An appeal must set forth specifically a claim that there was an error or an abuse of discretion, or that a decision was not supported by evidence in the matter.
  
- B. Application. Any appeal following a decision of the Code Enforcement Officer or the P & Z Commission shall be made in writing on prescribed forms obtainable at the Town office, upon payment of an administrative fee, and submitted to the Code Enforcement Officer. Any appeal not submitted within thirty (30) days after the decision which is the subject of the appeal shall not be considered by the Town Council. The Code Enforcement Officer shall transmit all papers involved in the proceedings to the Town Council within seven (7) days after receipt of the appeal application.
  
- C. Public Hearing. The decision on an appeal shall be made by the Town Council following a public hearing. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the Town at least fifteen (15) days prior to the hearing. The Code Enforcement Officer shall

notify the applicant, members of the P & Z Commission, and a representative of the opponents, if any, of the hearing date.

- D. Stay of Proceedings. An appeal shall stay all proceedings in the action unless the Code Enforcement Officer certifies that a stay will cause imminent peril to life or property. Upon certification, the proceedings shall not be stayed except by order of District Court.
- E. Decision. An appeal shall be decided within sixty (60) days of the date of application of the appeal. A majority vote of the members of the Town Council is required to reverse, change, or affirm a decision made by the Code Enforcement Officer or the P & Z Commission.

**SECTION 23. ADMINISTRATIVE FEES.**

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

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

1. Amendment to this Ordinance	\$300.00
2. Appeal	\$75.00
3. Conditional Use Permit	\$100.00
4. Conditional Use Permit Renewal	\$50.00
5. Development Review (Commercial)	\$100.00
6. Development Review (Residential)	\$35.00
7. Variances	\$75.00
8. Re-Plat (reconfiguration—non division)	\$100.00
9. Lot Split (division)	\$100.00 Per Lot
10. Mobile Home Review/Permit	\$75.00
11. Building Permit	\$35.00

12. New Address or Re-Address Letters	\$35.00
13. Business Signs	\$35.00 Per Sign
14. Political Signs	\$100.00 one-time fee
15. Real Estate Signs	\$35.00 per sign

**SECTION 24. PENALTIES.**

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

**SECTION 25. SEVERABILITY.**

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

**Town of Peralta**  
Comprehensive Zoning Ordinance  
Number 2007-09, Amendment Two (*Signature Page*)

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2017

Town of Peralta Governing Body:

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Bryan R. Olguin, Mayor

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Michael Leon Otero, Councilor Mayor Pro-tem

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Claudio Moya Jr. Councilor

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Joseph Romero, Councilor

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Randy Smith, Councilor

ATTEST:

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Julie Pluemer, Town Clerk

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Date

TOP/jp