

§ 14-16-2-28 OVERLAY ZONES.

The following overlay zones apply to areas where they are mapped in addition to the provisions of another zone. Where the provisions of overlay zones conflict with the provisions of another section of this Zoning Code, the provisions of the overlay zone shall prevail.

(A) WO Wall Overlay Zone.

- (1) General. The overlay zone may be considered for land placed in any residential zone where, due to special planning considerations or external influences, high walls or fences are reasonable and proper even in the front yard.
- (2) Control. Front yard wall and fence heights shall be set by the Planning Commission; maximum height in feet shall be stated in the resolution and on the zone map: e.g., R-1/WO-4. However, no wall or fence shall violate the clear sight triangle nor shall a wall or fence over three feet high be closer than 11 feet to the junction of a driveway and a public sidewalk or planned public sidewalk location. All wall designs must comply with requirements of § 14-16-3-19, except for height regulations as determined by the Planning Commission.
- (3) Procedures. The wall overlay zone is mapped through the regular rezoning process.

(B) HO Historic Overlay Zone.

- (1) General. This overlay zone may be used in any area which is suitable for preservation and which has historical, architectural or cultural significance, and which in addition:
 - (a) Embodies the distinctive characteristics of a type, period, or method of construction;
 - (b) Portrays the environment of a group of people in an era of history characterized by a distinctive architectural type;
 - (c) Has yielded, or is likely to yield, information important in history or prehistory;
 - (d) Possesses high artistic values; or
 - (e) Has a relationship to designated landmarks or a historic zone which makes the area's preservation critical.
- (2) Controls and procedures shall be prescribed in division (D) of this section.

(C) UCO Urban Conservation Overlay Zone.

- (1) General. This overlay zone may be used for areas which have distinctive characteristics that are worthy of conservation but which lack sufficient historical, architectural, or cultural significance to qualify as historic areas, and which, in addition:
 - (a) Have recognized neighborhood identity and character;
 - (b) Have high artistic value;
 - (c) Have a relationship to urban centers or historic zones which makes the area's conservation critical; or
 - (d) Are located outside of the Redeveloping Area and are subject to blighting influences.

- (2) Controls and procedures shall be as proscribed in division (D) of this section.

(D) Controls and procedures in the HO Historic and UCO Urban Conservation Overlay Zones.

- (1) Control. The area's distinctive characteristics and general preservation guidelines for the area shall be identified by the City Council in the resolution applying the Historic or Urban Conservation Overlay Zone to any given area. Specific development guidelines for each Overlay Zone area shall be adopted by the Landmarks and Urban Conservation Commission. Any construction, alteration, or demolition which would affect the exterior appearance of any structure within said Overlay Zone shall not be undertaken until a Certificate of Appropriateness has been approved by the Landmarks and Urban Conservation Commission. Provided, however, that the adopted specific development guidelines may exempt specific structures and types of construction, alteration or demolition from the requirement for a Certificate of Appropriateness or may provide for City staff approval in lieu of Landmarks and Urban Conservation Commission approval. Procedures relating to the issuance of a Certificate of Appropriateness are proscribed in Chapter 14, Article 12, Landmarks and Urban Conservation.
- (2) Procedures. The HO Historic or UCO Urban Conservation Overlay Zones are mapped through the regular zone map amendment procedures as provided in § 14-16-4-1 of this Zoning Code, except that:
 - (a) An application for the UCO Urban Conservation Overlay Zone or an application for amendment to the boundaries or the criteria adopted by the Council as to an existing UCO Urban Conservation Overlay Zone can only be submitted by property owners in the area. Fifty-one percent of the property owners in the area covered by the application for a UCO Urban Conservation Overlay Zone must agree in writing to the application before it is submitted.
 - (b) The Landmarks and Urban Conservation Commission shall conduct the public hearing on the application. The notice requirements shall be the same as those proscribed for Planning Commission hearings on zone map amendments. On the basis of plans, policies and ordinances, adopted by the City Council, the Landmarks and Urban Conservation Commission may recommend approval or amendment of the application, or it may deny the application; and
 - (c) If the Landmarks and Urban Conservation Commission recommends approval or amendment, the application shall be transmitted to the Planning Commission for review. The Planning Commission shall only conduct a public hearing on the application if new relevant events have occurred since the Landmarks and Urban Conservation Commission hearing or if the Planning Commission concludes that a public hearing is necessary to carry out the intent of the Zoning Code. The Planning Commission shall forward the application to the City Council with the Landmarks and Urban Conservation Commission's recommendations and the Planning Commission's evaluation; and
 - (d) Only the City Council is authorized to approve any HO Historic or UCO Urban Conservation Overlay Zone map change. The City Council shall officially identify the area's distinctive characteristics which are to be preserved and provide general preservation guidelines in the resolution applying the overlay zone to any given area. The City Council may approve, amend or reject the Landmarks and Urban Conservation Commission's recommendations or the Planning Commission's evaluation. The City Council may amend or rescind any HO Historic or UCO Urban Conservation Overlay Zone it has granted; and

- (e) Notice of the time and place of the public hearing conducted by the Council committee on the overlay zone change resolution shall be contained in a public notice in a daily newspaper of general circulation in the city at least 15 days before the date of the hearing. The notice shall give the location of the property, the present zoning, and the requested zoning, and the place where copies of the application may be examined. Mailed notice of the City Council hearing may be provided to people who indicated interest at the Landmarks and Urban Conservation Commission hearing; and
- (f) Within 60 days after an Historic or Urban Conservation Overlay Zone change has been approved, the Landmarks and Urban Conservation Commission shall approve specific development guidelines for the area. The specific development guidelines shall be consistent with the resolution approved by the City Council. The Landmarks and Urban Conservation Commission may amend the guidelines at a public hearing.

(E) AP Airport Protection Overlay Zones.

- (1) These overlay zones are appropriate to be used in the vicinity of airports. They are particularly appropriate for essentially undeveloped land. The purpose of these overlay zones is to encourage land use patterns that will separate uncontrollable noise sources from residential and other noise-sensitive areas and to facilitate the orderly development of areas around airports.
- (2) The boundaries of the following overlay zones shall be based on expected airport area intermittent noise levels, based on averaged ambient conditions and existing and projected aircraft operations. The effect of noise generated by any other specific land use is not reflected in the Ldn contours which are used to establish the overlay zone boundaries.
- (3) AP-1.
 - (a) The AP-1 Airport Protection Over-ly Zone may be mapped in areas which, due to the operation of aircraft, the noise rating is more than 75 Ldn.
 - (b) Permissive Uses. In addition to the limitations on development and use contained in the underlying zone, uses allowed in this overlay zone are limited to the following:
 - 1. Agriculture including incidental nonresidential facilities, except mink and poultry production.
 - 2. Fishing.
 - 3. Mining.
 - 4. Open Space.
 - 5. Parking of vehicles.
 - 6. Transportation routes, including roads, rail lines, and plane runways or taxiways.
- (4) AP-2.
 - (a) The AP-2 Airport Protection Overlay Zone may be mapped in areas in which, due to the landing or takeoff of aircraft, the noise rating is over 65 and not more than 75 Ldn.

- (b) Permissive Uses. In addition to the limitations on development and use contained in the underlying zone, uses allowed in this overlay zone are limited to the following:
 - 1. Uses allowed in the AP-1 overlay zone.
 - 2. Cemetery.
 - 3. Commercial activity (including manufacturing, transportation facilities, retailing, services, utilities, warehousing and wholesaling) except:
 - a. Outdoor theaters and stadiums are not permissive.
 - b. Hotels and motels are permitted only if:
 - i. Construction techniques provide ten decibels extra noise reduction over the industry average for similar structures; certification of such reduction by a qualified architect, or structural engineer registered in the State of New Mexico shall be presented to show compliance; and
 - ii. Airport hazard insurance is available to said establishments.
- (5) Conditional Uses. Any permissive use or conditional use allowed by the underlying zone and not permissive in the overlay zone, provided that due to the particular nature of the use or the special character of the enclosing structure it is clear that:
- (a) The use will not be adversely affected by noise expected to be generated by operation of aircraft; or
 - (b) A small amount of adverse effect from the noise expected to be generated by operation of aircraft is clearly outweighed by a special need for the use at the site proposed.

(F) DO Design Overlay Zone.

- (1) General. This overlay zone may be used for areas which deserve special design guidance but do not require complete design control of development; areas so zoned shall be at least 320 acres or they may be of any size specified by a controlling Rank Three Sector or Neighborhood Development Plan. This overlay zone shall meet at least two of the following three conditions:
 - (a) Contain highly scenic natural features or physical setting, or have highly significant views.
 - (b) Have development potential which is likely to require unusually complex coordination of floor control, transportation, open space, and urban land uses.
 - (c) Have a strong role in the development of the form of the metropolitan area: arterial street corridors or critical areas near urban centers or historic zones.
- (2) Control. Design regulations, which control specified critical design aspects of the area, shall be adopted by the City Council in the resolution applying the Design Overlay Zone to any given area. Such regulations shall be as specific as possible so that developers and designers will have a clear indication as to what development designs are acceptable. These regulations will address specified design criteria; total design control of development is not intended. Any construction or alteration of buildings or sites which would affect the exterior

- appearance of any lot within the overlay zone shall be consistent with the adopted regulations. However, building demolition shall not be controlled by the regulations.
- (3) **Advisory Design Guidelines.** The City Council, the Planning Commission, or the Planning Director may promulgate advisory design guidelines to supplement the design regulations. Such guidelines need not necessarily be followed by developers, but their observance is suggested in order that development might fully achieve the design potential of the area.
 - (4) **Procedure for Individual Premises.** Required design review and approval shall be by the Planning Director. Approval as to compliance with the adopted design regulations shall be certified by signature.

('74 Code, § 7-14-39) (Ord. 80-1975; Am. Ord. 21-1978; Am. Ord. 65-1979; Am. Ord. 23-1984; Am. Ord. 21-1989; Am. Ord. 86-1989; Am. Ord. 29-2004)

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