

Sec. 38-49.2. - SMO—South Mesquite Overlay District.

- A. *Purpose.* The South Mesquite Overlay District is designed to positively address issues unique to Las Cruces' Original Townsite and surrounding area. This area is addressed in the 2005 adopted Mesquite Neighborhood Plan and the 2007 adopted Mesquite Historic District Neighborhood Design Plan. Specific provisions in this Ordinance deal with issues such as compatible design, parking, setbacks, and land use/zoning designations that are better suited to this older part of the city characterized by smaller lots with multiple dwellings and scarce off-street parking resources. Additionally, neighborhood design guidelines and standards have been created that will help enhance and preserve the unique character of Las Cruces' first neighborhood.
- B. *Delineation of Overlay District Boundaries.* The South Mesquite Overlay (SMO) District shall include all properties located within the boundaries shown on Figure 1.
- C. *Definitions.* Definitions shall rely on those noted in Section 38-20 of the 2001 Zoning Code, as amended unless otherwise noted here:

Accessory Structure: See Section 38-51 of the 2001 Zoning Code, as amended.

Accessory Dwelling Unit (ADU): See Section 38-53 of the 2001 Zoning Code, as amended.

Compatible: Capable of existing together in harmony. Parts of a whole that work well together when pieced together. Compatibility with existing elements does not mean uniformity.

Consistent: That which is similar to, or nearly the same.

Contributing: A resource that is listed as "contributing" on the National Register of Historic Places, the State Register of Cultural Properties, or the 1994-1995 State or National Mesquite Street—Original Townsite Historic District of Las Cruces, New Mexico Inventory. In the law regulating historic districts in the United States, a contributing resource is any building, structure, site, or object which adds to the historical integrity or architectural qualities that make the historic district important. In this document, "contributing" and "significant" may be used interchangeably [see Significant definition below].

District Boundary: The boundaries of the South Mesquite Overlay District are shown in Figure 1. The properties that are included within the Overlay District include all those within the boundary shown on Figure 1.

Demolition: An act that destroys or removes in whole or in part the exterior of a building or structure of a historic property.

Design Standards: Regulations intended to preserve the historic and architectural character within the South Mesquite Overlay District.

Exterior Appearance: The visual character of all outside surfaces of a structure, including facades, fenestration pattern, signage, light fixtures, steps, or character-defining features, such as corbelled posts, exposed vigas, tiles, canales, etc. Fencing or walls surrounding the structure also contribute to the exterior appearance of a property.

Exterior remodeling, exterior renovation, and exterior alteration: Any change or rearrangement in the supporting members of an existing building, such as exterior bearing walls, columns, beams, girders, as well as any substantial change in rooflines, number of doors and/or windows added, removed, replaced, or resized, or any enlargement to or diminution of a building or structure, whether horizontally or vertically or any installation or replacement of fencing viewed from the street. Maintenance or repair shall not be construed as exterior remodeling, renovation, and/or alteration.

Facade: Typically the front of a building; however, any elevation on view is considered a facade.

Historic: In this document, structures that are listed as contributing or significant by the National Register of Historic Places, the New Mexico Register of Cultural Properties, the State or National Mesquite Street-Original Townsite Historic District of Las Cruces, New Mexico.

Historic Districts: The boundaries of the State "Mesquite Street-Original Townsite Historic District of Las Cruces New Mexico" and the National "Mesquite Street-Original Townsite National Historic District of Las Cruces New Mexico" are found in Figure 2.

Historic Integrity: The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's period of significance.

Historic Register: In this document, the National Register of Historic Places or the New Mexico Register of Cultural Properties.

LCMC: Most current edition of the Las Cruces Municipal Code.

New Construction: The erection of a new primary structure or accessory structure on a lot or property.

Ordinary Maintenance or Repair: Any change that is not new construction, removal, or alteration. Repair may include patching, piecing-in, splicing, consolidating, or otherwise reinforcing or upgrading historic materials such as masonry, wood and architectural metals according to recognized preservation methods. Repairing also includes the limited replacement in kind, or with compatible substitute material, of extensively deteriorated or missing parts or features when there are surviving examples, such as adobe bricks, brackets, dentils, or portions of slate or tile roofing.

Primary Façade(s): Any and all sides of a building which face a public right-of-way. A building may have more than one primary façade.

Primary Structure(s): In this document, the structure(s) for which the use is the main use of the parcel (not an Accessory Use as defined in Section 38-51 of the 2001 Zoning Code, as amended). Note: It is possible to have more than one primary structure on a parcel, for example two residences, or a retail shop and a residence.

Rehabilitation: Making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. Most projects in the South Mesquite Overlay are expected to be rehabilitation projects.

Relocation: Any relocation of a structure from its originally installed site to another site.

Secondary Residence: A dwelling unit that is subordinate in size and location to the main dwelling on a single property, and may be rented or leased as an independent dwelling unit. A secondary residence is different from a guest dwelling or accessory structure in that it is distinct dwelling unit containing a kitchen. Examples include a traditional guest house, apartment, cottage or converted garage.

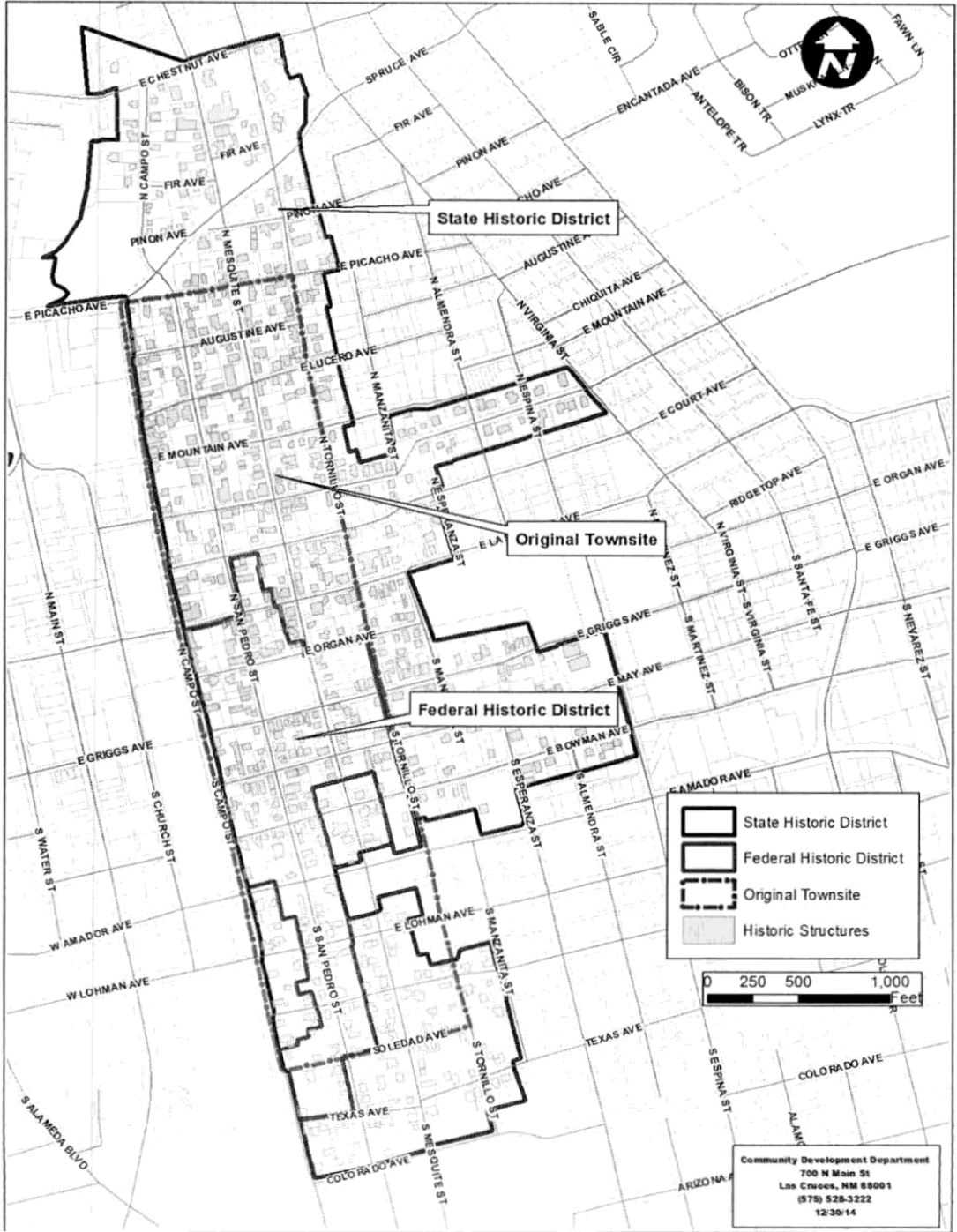
Significant: A resource that is listed as "significant" on the National Register of Historic Places, the State Register of Cultural Properties, or the 1994-1995 State or National "Mesquite Street—Original Townsite Historic District Inventory." In the law regulating historic districts in the United States, a significant resource is any building, structure, site or object which adds to the historical integrity or architectural qualities that make the historic district worthy of registration. In older nominations, the terms "significant" and "contributing" were used to "rank" buildings, but in newer nominations, the status of a resource is either contributing or non-contributing. "Significant" is no longer used as a separate term. In this document, "significant" and "contributing" may be used interchangeably.

SMO: South Mesquite Overlay District.

SMDRB: South Mesquite Design Review Board.

Structure: That which is built or constructed, an edifice or building of any kind, or any place of work artificially built up or composed of parts joined together in some definite manner. Note: Although "structure" and "building" have different meanings for many preservationists, in this document the two words are used interchangeably.

Figure 1 South Mesquite Overlay Boundaries



D. *Development Standards.* There shall be no development or alteration of the lands, uses, or structures within the SMO except as provided for by this Section of the 2001 City Zoning Code, as amended, other sections of the City Zoning Code, and other City Codes and Ordinances where applicable. Development requirements are established for the entire SMO, as follows (unless indicated in other sections of this Overlay):

Table 1: Development Standards

D.1	Lot Area/Size	3,500 square feet minimum
D.2	Lot Width/Frontage	50' minimum
D.3	Lot Depth	50' minimum
D.4	Front Setback	Within the range of existing setbacks and compatible with the surrounding area*
D.5	Side Setback	5' minimum **
D.6	Rear Setback	5' minimum**
D.7	Garage Setback	20' minimum
D.8	Building Height	14' in the Original Townsite and 25' elsewhere.***
D.9	Townhouses	Zero lot lines are permitted for townhouse development provided the structure meets the attachment requirements of Chapter 38-62 of the LCMC.
D.10	Accessory Structures	There shall be no limit to the number or square footage of accessory structures per Sec. 38-51.D
D.11	Residential Density	Lot size, setbacks, parking requirements and building heights shall determine residential density per property.

* Surrounding area generally mean all primary structures on the same side of the block. If there aren't at least two primary structures on the same side of the block, both sides of the block shall be used. The Applicant shall work with Community Development Department staff to determine a front setback distance with staff having the final determination.

** Overhangs are not permitted within required setbacks. Canales and viga ends are not deemed overhangs for the purpose of this limitation.

***Any requests for building heights greater than those stated above require an application for a height exception be reviewed and approved by the SMDRB; applications shall meet the design criteria noted in Section 38-49.2. K, Design Guidelines.

The regulations of this Overlay District shall supersede any regulations of the citywide 2001 Zoning Code. as amended. However, when the regulations of this SMO do not address a particular design or development standard or regulation, the applicable City, State, or Federal regulation shall apply. The provisions of Section 38-58 which allow for Flexible Development Standard waivers shall apply within the SMO; however, such requests shall be approved by the SMDRB for recommendation to the

Community Development Director.

Diagram 1 Setbacks

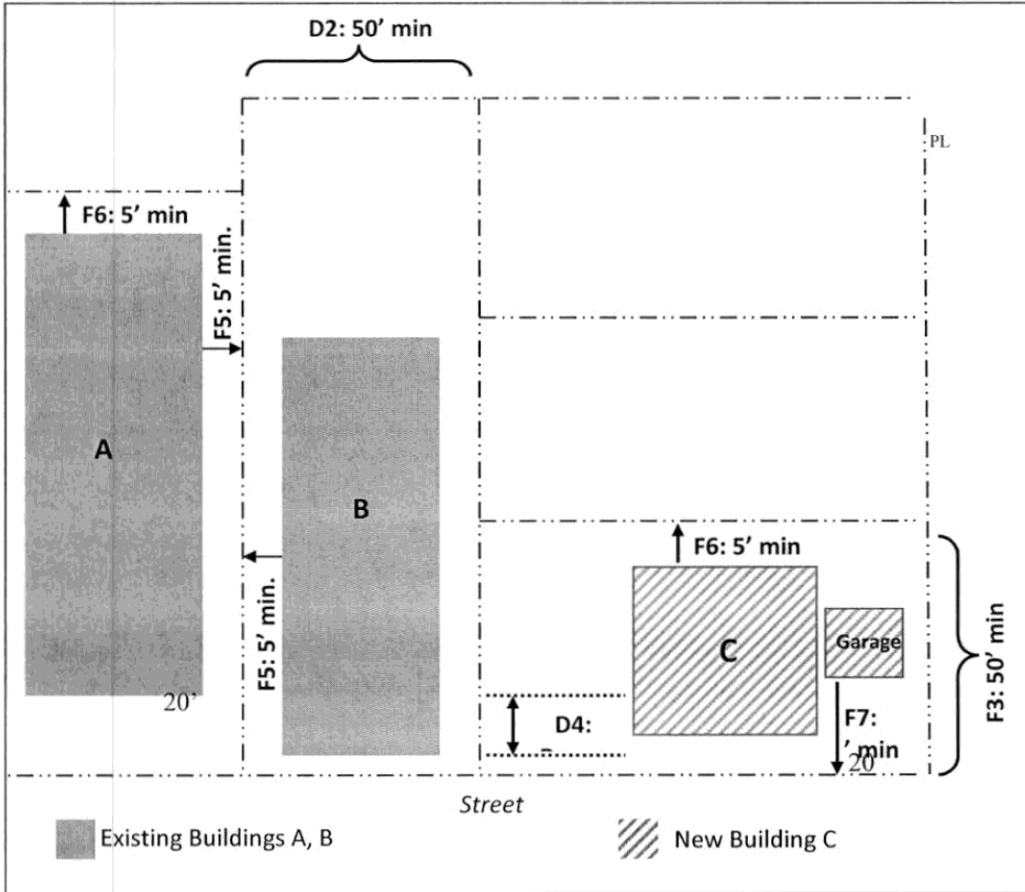
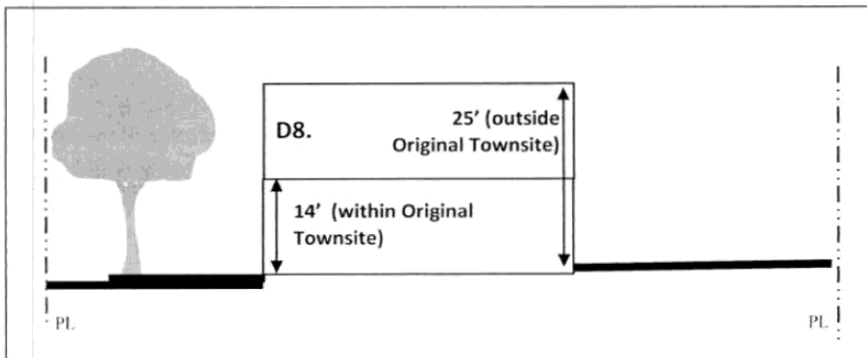


Diagram 2 Maximum Height



- E. *Landscape Requirements.* Landscaping shall follow standards set forth in Chapter 32 of the LCMC with the following modifications:

1. Applicability: Landscaping standards apply to all new development in the SMO with the exception of single family dwellings and duplexes, unless noted elsewhere in this section.
2. A variety of landscaping materials shall be employed to create visual interest and to complement other plantings in the neighborhood. Care should be taken when planting too close to adobe structures which can be damaged by plant watering. Plant materials, including shade trees, shall be native and/or draught tolerant, as these are best suited to the Chihuahua Desert. This is not to say that the landscape plan needs to adhere to Xeriscaping. On the contrary, plants should be chosen that will survive and thrive in the local climate. Appropriate species include, but are not limited to, the following:

TREES	SHRUBS	GROUNDCOVER
Arizona Ash Arizona Cypress Arizona Mesquite Canyon Hackberry Chinese Pistache Desert Willow Italian Cypress Lacebark Elm Palo Verde Pecan Pines Southern Live Oak Texas Honey Mesquite Texas Red Oak Sycamore Western Hackberry	Euonymus Pyracantha Sages (Texas, Desert Chihuahuan, Cherry, Russian, etc.) Silverberry Spanish Broom	Bermuda TIFF, various Vinca Trailing Rosemary Iceplant Creeping Thyme Powis Castle Artemesia Dalea capitata Clover Fern

3. All new development, except single-family dwellings and duplexes, and adaptive reuse of properties (such as a change of use) shall be required to plant trees within parking lots for shade and visual relief (see subsection 5 below).
4. Landscaping gravel, decorative stone or other organic landscaping materials may be used for landscaping, provided such materials blend visually with other landscaping material and planting style standards and meet the City's wind erosion control ordinance).
5. Landscaping for Parking Lots: All new construction, except single family dwellings and duplexes and adaptive reuse of properties, shall require landscaped parking areas. Landscaping in parking areas shall follow Chapter 32 of the LCMC, "Development Standards for Landscaping," with the following modifications:
 - a. Trees in parking lots shall be located in an island or planter in which the tree trunks shall be protected from motor vehicles. Islands shall be a minimum of six feet wide, have a minimum area of thirty-six (36) square feet and a raised border of at least four (4) inches in height.

- b. One tree shall be planted for every five (5) parking spaces within parking lots as they pertain to the uses listed for each area.
 - 6. The SMDRB shall have the authority to modify or waive landscaping requirements of Chapter 32 of the LCMC or of this Section if the Board determines that such modification would result in a project that better advances the purposes of the SMO and positively addresses its design standards.
 - 7. Community Development Department staff shall review landscape plans.
- F. *Permitted Uses.* There shall be no land uses within this Overlay District except as identified in this land use matrix. Zoning districts are as follows:
- 1. R-1a: Single-family Low Density Residential District
 - 2. R-2: Medium Density Residential District
 - 3. R-3: High Density Residential District
 - 4. R-4: High Density Residential and Limited Office District
 - 5. O-1: Neighborhood Office District
 - 6. O-2: Professional Office with Limited Retail Service
 - 7. C-1: Neighborhood Commercial District
 - 8. C-2: General Commercial District
 - 9. C-3: High Density Commercial. C-3 zoning and land uses are not permitted in the Overlay District with the exception of those uses which existed at the time of SMO adoption, Ordinance 2200, May 24, 2005. Uses that were pre-existing at the time of adoption and are no longer permitted by right shall be considered non-conforming and shall follow the provisions of NON-CONFORMING USES, STRUCTURES, AND PROPERTY below and Sec. 38.70-76.
 - 10. PUD: Planned Unit Developments are allowed as part of a specific rezoning.

Permitted Land Uses in the South Mesquite Neighborhood Overlay Zoning District A= Allowed-by-right; C=Conditional Use with the conditions noted; and S= Special Use Permit with public hearing required.									
Land Use	R-1a	R-2	R-3	R-4	O-1	O-2	C-1	C-2	Comments
Accessory dwelling units	A	A	A	A	A	A	A	A	
Apartments		A	A	A	A	A	A	A	
Assisted Living, Retirement home		A	A	A	A	A	A	A	
Detached single-family dwelling	A	A	A	C	C	C	C	C	C: residential densities in R-4 and commercial zones limited to a maximum of 40 DU/acre.
Guest dwelling unit	C	C	C	C	C	C	C	C	C: see Sec. 38-51 and 38-53

Duplex		A	A	A	C	C	C	C	C: residential densities in R-4 and commercial zones limited to a maximum of 40 DU/acre.
Triplex		A	A	A	A	A	A	A	
Quadplex		A	A	A	A	A	A	A	
Home for the Elderly	A	A	A	A	A	A	A	A	
Home for the Disabled	C	C	C	A	A	A	A	A	C: 10 or fewer persons allowed
Hostel				C	C	C	C	C	C: limited to 10 persons per establishment and a maximum stay of 14 continuous days per guest.
Nursing Home	C	C	C	A	A	A	A	A	C: 10 or fewer persons allowed
Halfway house	S	S	S	S	S	S	S	S	See Sec 38-21
Fraternity/sorority house			C	C	C	C	C	C	C: Limited to 10 persons per establishment;
Temporary/homeless shelter	S	S	S	S	S	S	S	S	
Manufactured home	A	A	A	C	C	C	C	C	All manufactured homes shall meet the design standards of the SMO and skirting and exterior wall materials shall be consistent with the architecture of adjacent structures. Residential densities in R-4 and commercial zones are limited to a maximum of 40 DU/acre.
Townhouse [one room attached to the neighboring single-family dwelling]		A	A	A	A	A	A	A	
Patio home [100% built to side	C	C	C	C	C	C	C	C	C: see Sec 38-62, setback

property line]									exceptions.
Accessory uses and structures	A	A	A	A	A	A	A	A	
Bed & Breakfast Establishment	C	C	C	C	C	C	C	C	C: Number of guest rooms is limited to 8.
Greenhouse, private (non-commercial)	A	A	A	A	A	A	A	A	
Community Gardens (neighborhood based)	A	A	A	A	A	A	A	A	
Home occupations	C	C	C	C	C	C	C	C	C: See Sec. 38-52
Kennel/cattery, private residential	C	C	C	C	C	C	C	C	C: Permitted in accordance with Chapter 7 of the LCMC; noise from barking dogs and odors from this activity shall not be discerned off the premises.
Recreational court, tennis, etc., private	S	S	S	S	S	S	S	S	Must mitigate off-site noise and light glare.
Storage of RVs and motor vehicle appurtenances	C	C	C	C	C	C	C	C	C: Maximum 1 per parcel located within any open area between the front setback and the rear setback and shall otherwise meet the standards of Sec. 38-58.D.7.
Swimming pool, private	C	C	C	C	C	C	C	C	C: A swimming pool shall be at least 5 feet from property lines; also see Sec. 38-60 Walls and Fences.
Temporary uses	C	C	C	C	C	C	C	C	C: See Sec. 38-50.
Produce stands	C	C	C	C	C	C	C	C	C: Allowed per State law; may be accessory to community gardens.
Veterinary facility								C	C: Noise from barking dogs shall

									not be discerned off the premises.
Cemetery/columbarium	S	C	C	C	C	C	C	C	C: See Sec. 38-53; S: See Sec. 38-54.
Family child care home (up to 6 children)	A	A	A	A	A	A	A	A	See Sec. 38-52.D and 38-53.
Group child care home (7 to 12 children)	S	A	A	A	A	A	A	A	S: See Sec. 38-52.D and 38-53.
Child care center or preschool		S	S	S	S	S	S	S	S: See Sec. 38-52.D and 38-53.
Community buildings/uses	C	C	C	C	A	A	A	A	C: Shall be located on a major local or higher classification road.
Convention center/exhibition hall					C	C	C	C	C: Must be accessed from an arterial road (Lohman, Amador); size is limited to 5,000 GFA.
Library/museum		A	A	A	A	A	A	A	
Religious institutions	C	C	C	C	C	C	C	C	C: Shall be located on a major local or higher classification road; all sites shall have a minimum 1 acre; structures or parking located within 25 feet of a residential use shall provide an opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of a residential use.
School, college, trade school, private or public	S	S	S	S	S	S	S	S	S: On a case-by-case basis, application shall address safe access, off-street parking demand, screening and landscaping, noise and other relevant impacts of the development on adjacent residential uses. Structures or

										parking located within 25 feet of a dwelling unit shall provide a Type A opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within 25 feet of property used for residential purposes.
Arcade, game room									A A	
Batting cage, indoor									A A	
Billiard, Pool Hall									A A	
Bowling alley									A A	
Miniature golf course									A	
Health/exercise club/gymnasium/sports instruction				C	C	C	C	C	C	C: Noise from this activity shall not be discerned off-premises.
Park	C	C	C	C	C	C	C	C	C	C: Limited to neighborhood park or private park. See Sec. 38-53. Public parks shall also comply with Chapter 20 of the LCMC.
Mini-race tracks e.g. go carts									C	C: Hours of operation limited to between 10 AM and 10 PM.
Recreation courts, public			S	S	S	S	S	S	S	S: Must mitigate off-site noise and light glare.
Skating rink, Indoor				A	A	A	A	A	A	
Swimming pool, commercial or public; indoor only					S	S	S	S	S	S: See Sec. 38-54.
Botanical garden				A	A	A	A	A	A	

Personal or business service office uses		C	C	C	A	A	A	A	C: In R districts, non-residential uses are permitted only on the ground floor; no more than 35% of the GFA of the buildings on the parcel, combined, is permitted to be non-residential uses.
Art studio		C	C	C	C	C	C	C	C: Noise from activities shall not be discerned off the premises.
Barber/beauty/hair salon and related personal care services		A	A	A	A	A	A	A	
Medical/dental office; counselor/therapy services		A	A	A	A	A	A	A	
Bank, bonding and financial institution/facility; no drive-through						C	C	C	C: Each business establishment is limited to a sole practitioner and only one such business establishment per parcel.
Business office: consulting; credit reporting & collection; desktop publishing, graphic design; institutional office, public or private; educational office; religious office; philanthropic office; mailing & stenographic services; motion picture production; noncommercial research organization					A	A	A	A	
Adult day care services/facility					A	A	A	A	
Funeral home; laboratory					A	A	A	A	
Pharmacy; no drive-through						C	C	C	C: Permitted only as accessory to a medical, dental or similar office use and strictly for the purpose of serving the patients of the medical office use.

Auto/truck parts store										A	
Auto/truck repair & service										C	C: No salvage yard or related activities shall be permitted. No outside storage of parts, materials, or equipment is permitted. All outdoor storage of non-operable vehicles must be screened with opaque fencing.
Auto/truck self-service/automated or full service wash/wax/detailing										C	C: Limited to a collector or higher classification road.
Bar/pub/tavern (no dancing)										A	
Sale of building material										A	
Café, cafeteria, coffee shop, restaurant, etc. No drive-thru				A	A	A	A	A			
Sale of carpet/window treatments										A	
Cleaning & maid services									A	A	
Clothing store									A	A	
Convenience store (no gas sales)									C	C	C: No drive-through facility.
Delicatessen, produce/meat market; No eating facilities									A	A	
Delicatessen, produce/meat market with eating facilities									C	C	C: No drive-through facility.
Firewood sales										C	C: If displayed outside a building, a semi-opaque screen around the perimeter of the use shall be provided; 20 cord maximum stored on site; see Sec. 38-50.

Furniture store										A		
Sale of garden supplies										A		
Grocery store										A	A	
Hardware store										C	A	C: No outside storage of supplies or materials.
Home furnishings										A	A	
Kennel/cattery, commercial or non-profit											C	C: Use allowed in accordance with Chapter 7 of the LCMC; noise from barking dogs shall not be discerned at the nearest dwelling unit.
Laundry/dry cleaning services										A	A	
Newspaper distribution											A	
Pawn shop											A	
Petroleum/propane sales											C	C: Sale of portable propane tanks and similar gas only is allowed as an accessory use to a retail establishment; use of such equipment is allowed as an accessory use when meeting current Fire Code standards. Gas stations are not permitted.
Plant nursery											A	
Private club or lodge	C	C	C	C	C	C	C	C	C	C	C	C: See Sec. 38-53. A private club or lodge shall be located on a major local or higher designated street. Structures or parking located within 25 feet of a dwelling unit shall provide a Type A opaque buffer consisting of landscaping

Video/DVD rental/sales (non-adult oriented)								A	A	
Cab stand									A	
Distribution centers									A	
Parking facilities, commercial (garages & parking lots)	S	S	S	S	S	S	S	S	S	
Storage outside of buildings of materials, equipment and supplies not for sale									C	C: All outside storage shall be enclosed with an opaque, Type A screen.
Storage, warehousing accessory to office, retail trade, service or industry businesses									C	C: Maximum of 95% of the total square footage may be used for this storage.
Storage/display of merchandise for sale (except manufactured buildings, manufactured homes, mobile homes & operable cars, trucks, motorcycles and RVs)						C	C	C	C	C: Outdoor display of goods sold on the premises is limited to 25% of the gross floor area devoted to the business use.
Wholesale trade, any product									C	C: No outdoor storage allowed.
Construction yard or buildings, temporary	C	C	C	C	C	C	C	C	C	C: See Section 38-53: Such yard or building(s), including a mobile home or recreational vehicle for a temporary residence or construction office, or any other facilities or arrangement approved by the Community Development Director or designee shall be removed upon completion of construction and in compliance with the Chapter 30 of the Municipal Code. Construction yards and buildings or any other facilities shall be maintained in a neat and orderly fashion. Open

										yards shall be enclosed by a fence at least five (5) feet in height.
Contractor's Yard									C	C: All outdoor storage shall be enclosed with an opaque Type A screen
Cottage Industry with retail sales or service (manufacture or processing of goods such as beer or food products for sale on the premises)									C C	C: Allowed only when such use occurs within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on site only, and shall not pose any significant adverse impact to adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet, may be used in the conduct of the cottage industry manufacturing or processing.
Crematorium									C	C: See Sections 38-53 and 38-54.
Antennas, towers, communication structures and other utility vertical structures									S S	See Section 38-59 and Section 38-54.
Facial mounted antennae (attached to the primary use)									C C	C: Facial mounts must be placed or erected to the primary use/structure in a manner which conceals, to the extent possible, the antenna or face mount. No more than ten (10) additional feet in height to the maximum building height shall be allowed as a result of application or erection of the antenna or face mount. See also

										Section 38-59.
Private/public utility (e.g. substations, water wells, transformers, regulators, lift stations, telecommunications site)	S	S	S	S	S	S	S	S	S	See Section 38-53. A solid wall or fence shall surround the installation. Landscaping as per Subsection E above shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.
Recycling collection centers (neighborhood scale only)				S	S	S	S	S		Hours of operation may be limited to mitigate noise to adjacent residences; equipment rooms and outdoor storage of materials shall be screened with opaque fencing; trash shall be contained and properly disposed of; the DRB and Planning and Zoning Commission may impose conditions to insure that noise, fumes, odors and congestion is avoided.
Private "Ham" radio telecommunication antennae	C	C	C	C	C	C	C	C	C	C: Antennae shall not exceed the building height limit.

- G. *Non-Conforming Uses, Structures, and Property.* Many people refer to non-conforming uses as the "Grandfather Clause." If a use, structure, etc., was established legally under the previous code, it is considered a legal non-conforming use or non-conforming or non-complying structure. Except for the following, requirements stated in Sections 38.70-76 of the 2001 Zoning Code, as amended, shall apply.
1. If a legal non-conforming use becomes and remains vacant, a two (2) year time limit shall be placed on reestablishing the non-conforming use at that location.
- H. *Parking Requirements.* The following exceptions to the parking requirements found in Sections 38-33 (land use matrix) and 38-58 of the 2001 Zoning Code, as amended, shall be used in the SMO:
1. Buildings within the SMO constructed prior to 1955 shall not be required to provide off-street parking.

2. Buildings within the SMO constructed after 1955 shall be required to provide off-street parking pursuant to the requirements of Sections 38-33 (land use matrix) and Section 38-58 of the Zoning Code, as amended. These buildings and properties shall be eligible to use:
 - a. The historic district parking exceptions found in Section 38-58.G.2. of the 2001 Zoning Code, as amended, whether the development is commercial or residential; and/or
 - b. The on-street parking allowance found in Chapter 38-58.G.3, for new development, subject to any restrictions placed by Traffic Engineering for applicable roadways; and
 - c. Surface materials for parking areas for residential or non-residential developments may be pervious materials such as stone or brick pavers or compacted crushed stone (gravel). If gravel is used, single-family and duplex parking areas may use compacted crusher fine or "pea" gravel, but multi-family and non-residential development parking areas shall be limited to using a minimum one-inch diameter size, compacted gravel. Concrete parking pads are not permitted to be installed abutting adobe walls to avoid damage due to "wicking" (transfer of moisture trapped beneath the concrete to the adobe wall).
 3. Parking areas for new development of non-residential and multi-family uses, including garages and carports, are not permitted in the required front setback of the subject property.
 4. The SMDRB shall have the authority to, modify or waive requirements of the off-street parking Section 38-58 of the Zoning Code or of this Section, with the concurrence of the City's Traffic Engineer, if the Board determines that such modification would result in a project that better advances the purposes of the SMO and positively addresses its design standards
- I. *Signage.* All signage shall be of materials and design that are compatible with the architecture of the structure and the residential character of the neighborhood. Electronic moving/digital signs are not permitted in the SMO. Sign permit applications shall be submitted for approval to the Community Development Department in accordance with Chapter 36 of the LCMC with the following modifications:
1. *Off-Premises Signs:* No off-premises signs shall be allowed in the SMO except for the following:
 - a. Political signs, which shall follow regulations stated in Chapter 36 of the LCMC
 - b. Yard/Garage sales, etc., and displays regarding community events or holidays, which shall follow regulations stated in Chapter 36 of the LCMC
 - c. Existing legally permitted off-premise signs such as billboards shall be considered legally non-conforming and shall be regulated in accordance with Chapter 38-70 through 76 of the LCMC.
 2. *On-Premises Freestanding Signs:*
 - a. Ground signs shall be the only freestanding sign allowed within the SMO, except on Lohman and Amador Avenues, and shall be no greater than five feet in height. Only one ground sign per commercial property shall be permitted. Ground signs must be set back at least five feet from any property line and must be at least five feet away from the wall of the building.
 - b. Ground signs shall be no greater than two square feet in overall size.
 - c. Ground signs may be illuminated and shall follow regulations stated in Chapter 39 of the LCMC (Outdoor Lighting).
 - d. Properties developed as business centers shall conform to the following:
 - i. One ground sign identifying the name of the center and individual businesses is permitted if desired.
 - ii. A property containing a business center sign may not have additional freestanding signs, except for Temporary signage, which shall follow Chapter 36 of the LCMC.

- e. All ground signs shall comply with Clear Sight Triangle requirements.
 - f. On-premises pole signs on Lohman and Amador Avenues are allowed and shall follow the standards of Chapter 36 of the LCMC.
3. *On-Premises Attached Signs.* Attached signs shall follow size and placement regulations for attached signage in Chapter 36 of the LCMC.
4. *Portable A-frame signs.* An A-frame sign means a self-supporting, portable sign with one or two faces that are adjoined at the top and displayed at an angle, which is designed to be placed where pedestrians walk or gather and ADA accessibility is assured. The sign shall not be permanently anchored or secured and shall be removed at the end of the establishment's business hours. Sign language is limited to advertising the business name, location, and goods or services provided.
- a. All agents, employees or representatives displaying an A-frame sign on public property in the CBD shall comply with the following provisions:
 - i. One A-frame sign per business may be displayed during regular business hours;
 - ii. A-frame signs shall be no greater than 6 square feet on one side, no more than 12 square feet total, and shall be no greater than 3 1/2 feet in height;
 - iii. An A-frame sign shall be installed and removed by the business or property owner;
 - iv. No A-frame sign shall be erected in such a manner so as to obstruct ADA access or vehicular traffic;
 - v. A-frame signs shall only be displayed immediately in front of the business;
 - vi. No A-frame sign may be located on public property such as sidewalks or parkways;
 - vii. No business or property owner shall display any sign advertising another business or a business no longer open to the public;
 - viii. The business or property owner shall be responsible for any damage caused to public property by the sign;
 - ix. The business or property owner assumes all risks with setting up an A-frame sign and shall not hold the City responsible for any accidents or loss in the installation, removal, or operation of the sign.
5. *Inflatable Signs or Pennants.* Temporary inflatable pennants, streamers and other fluttering devices shall be permitted for a special event lasting up to 14 days per event and only four such events shall be allowed per parcel per calendar year.
6. *Prohibited Signs.* The following signs are prohibited:
- a. Variable electronic message display boards, whether temporary or permanent.
 - b. Permanent banners.
 - c. Pennants, streamers, and other fluttering devices exceeding the time limits of temporary uses noted above.
 - d. Real estate, construction, contractor and "coming soon" signs over 12 square feet in area or over five feet tall.
 - e. All other signs as prohibited in Chapter 36 of the LCMC.
7. Existing legally permitted signs shall be considered legally non-conforming and shall be regulated in accordance with Chapter 38-70 through 76 of the LCMC.
- J. *Establishment and Duties of the South Mesquite Design Review Board (SMDRB).* To ensure quality property development and renovation and to protect the historic character of the neighborhood, a Design Review Board shall evaluate and determine the exterior design appropriateness of proposals

for new construction, additions, exterior alterations, and rehabilitation of properties within the South Mesquite Overlay.

1. Establishment of the South Mesquite Design Review Board (SMDRB). A design review board shall consist of four professionals in historic preservation, history, architecture, interior design, construction or similar associated professions and three additional resident members who own or rent property within the District. Other membership requirements shall follow those found for Non-standard Boards and Committees in Chapter 2 of the LCMC.
2. Duties of the South Mesquite Design Review Board.
 - a. The SMDRB shall review the following permit applications for properties lying within the SMO and shall have final authority on these permits relative to exterior design criteria for:
 - i. Any new primary structure (s);
 - ii. Manufactured homes for compliance to SMO design standards, with limitations pursuant to State statute;
 - iii. Any new accessory structure in excess of 120 square feet;
 - iv. The conversion of an accessory structure to a primary structure such as a garage or shed to a casita;
 - v. Additions to an existing primary structure that was constructed 50 years prior to the current building permit application, whether or not it is listed as Contributing on the State or National Mesquite Street-Original Townsite Historic District Inventory. The Applicant shall provide evidence of the year built;
 - vi. Additions to accessory structures in excess of 120 square feet (one time or cumulative);
 - vii. Window or door replacement on street-facing facades;
 - viii. Any alterations to the street facade of the primary structure or any alterations to an accessory structure over 120 square feet in size; and
 - ix. Any alterations, replacement or changes to the roof resulting in an alteration of the style of roof of a primary structure or accessory structure over 120 square feet in size.
 - b. The SMDRB shall establish criteria for issuance of Certificates of Appropriateness (C of A) which shall reflect the purposes and the design guidelines, standards and criteria of this Section. These criteria shall be attached to the permit application for Applicants to review prior to submittal.
 - c. The SMDRB shall review and make recommendations to the Community Development Director for the following:
 - i. Flexible Development Standard Waivers. The SMDRB shall be the recommending body to the Community Development Director for Tier 1 and Tier 2 FLEX waivers
 - d. The SMDRB shall review and make recommendations to the Planning and Zoning Commission for the following:
 - i. Planned Unit Development (PUD).
 - ii. Variances. Except when this Section authorizes the SMDRB to make the final decision on waivers, exceptions or variances, the SMDRB shall be the recommending body to Planning and Zoning Commission.
 - iii. Special Use Permits
 - iv. Land Use/Zone Changes. It is possible to request an additional land use for a specific parcel that is not already noted within the permitted use list within the SMOs. Each request will be considered on a case-by-case basis and shall be deemed compatible

with neighboring land uses and shall satisfy the purposes of the SMO. These requests will be processed per the rezoning process noted in Section 38-10 of the 2001 Zoning Code, as amended and this section. The SMDRB shall be a recommending body to the Planning and Zoning Commission. Final action on this additional land use request shall be made by the Planning and Zoning Commission unless appealed to the City Council.

- e. Cases not listed above shall go before the SMDRB if design issues related to the historic integrity of the neighborhood are involved or at the discretion of the Department Director or designee.
 - f. Infill Development District Projects. The Infill Development Overlay District provisions of Section 38-48 of the 2001 Zoning Code, as amended, shall not apply to development projects within the SMO. The SMO lies entirely within the Infill Development Overlay District and development proposals subject to the SMO regulations shall be reviewed by the SMDRB for recommendation to the legislative body, Community Development Director, Subdivision Administrator, Building Official or other applicable person or body, as appropriate.
 - g. State- or Nationally-funded projects requiring review by the State Historic Preservation Officer (SHPO) are exempt from review by the SMDRB. In New Mexico, "State-funded" includes funding by municipalities.
3. *Decisions of the SMDRB.*
- a. Members of the Board shall state the factual basis and the findings of their vote. Findings shall be based on Design Standards found herein, information from staff reports and staff presentations, public comment, and one or more of the following:
 - i. References to the Zoning Code or other applicable codes;
 - ii. Design Guidelines for the South Mesquite District;
 - iii. The Secretary of Interior Standards for Rehabilitation;
 - iv. The New Mexico Historic Cultural Properties Inventory Manual; and
 - v. Projects other than those requiring approval by the SMDRB shall be reviewed for compliance to design standards by Community Development staff and are required to meet all other applicable City Codes.
 - b. Decision of Approval. If the SMDRB approves an application, it shall articulate the conditions (if any) to the approval and instruct staff to issue a Certificate of Appropriateness (i.e. action form). A copy of the Certificate shall be placed in the case file and a copy shall be provided to the Applicant and to the permitting and inspections sections.
 - c. Decision of Denial. If the SMDRB denies an application, the Notice of Decision shall identify the design standards or other requirements of this Section 38-49.2 that the proposed work conflicts with and shall also explain the Applicant's right to appeal the denial to City Council (as per Subsection P of this Section 38-49.2). A copy of the Notice of Decision shall be placed in the case file and a copy shall be provided to the Applicant.
4. *Issuance of Certificates of Occupancy or Completion.* Staff having prepared the Certificate of Appropriateness (C of A) shall review the final completion of the project for consistency with the C of A prior to the issuance of the Certificate of Occupancy or Completion for the project.
- K. *Design Guidelines.* Specific design guidelines, standards and criteria shall be used by staff and the SMDRB to determine the appropriateness of construction and rehabilitation projects, and to determine whether the request is consistent or inconsistent with existing development.
- 1. Applicable development must ultimately utilize architectural styles, methods, and materials that are visually compatible with the original structure, surrounding structures (especially where new

construction is proposed), and the overall character of the historic district. This should not be interpreted as a requirement to mimic existing styles or construction materials, but as a means for these types of projects to result in a visually compatible transition between old and new structures within the general neighborhood and/or on a single parcel of land.

2. When evaluating proposals for new development, additions, or rehabilitation in the SMO, the structure's contribution to the neighborhood comes in to play. Most of the SMO historic structures are located within the Original Townsite. These historic structures deserve the most protection and, therefore, the design standards for these are stricter than for newer buildings. There are also many structures listed as contributing on the historic register outside of the Original Townsite; these, too, follow the same design standards as those in the Original Townsite.
 3. In addition to the standards stated herein, staff and the SMDRB shall review projects based upon The Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring and Reconstructing Historic Buildings, and The New Mexico Historic Building Inventory Manual, 1980. These resources are available for public review in the Community Development Department or on the City's website.
 4. Ordinary maintenance and repair of any exterior architectural feature in or on a contributing building may be undertaken without a Certificate of Appropriateness provided this work is in keeping with the architecture or character of the building and does not cause a loss of its historic integrity. If such work requires a permit, Community Development staff shall evaluate these permits for consistency with the Design Standards of this Section.
 5. Criteria for Requesting and Granting Building Height Exceptions. Pursuant to Section D.8 of the SMO, the building heights within the SMO are limited to 14 feet and one story. Through a variance procedure to the SMDRB, a property owner may request a variance from this maximum building height or number of stories limitation provided that the SMDRB finds that the proposed building satisfies the following criteria:
 - a. For new construction: (a) The building is similar in height to another building or buildings within the same block; (b) the second story is set back from the first story by a minimum of 15 feet; (c) second story windows facing the street shall be small or clerestory; (d) second story windows facing adjacent residential properties shall be frosted to insure neighbors' privacy; and (e) the design of the building shall satisfy the design standards and guidelines of the SMO.
 - b. For additions: (a) the addition is limited to 20 percent of the total footprint of the primary building; (b) the addition must be setback or stepped back from the street-facing facade; (c) for additions to buildings deemed Contributory to the Historic District, materials and colors of the addition shall distinguish the addition from the original structure; (d) second story windows facing the street shall be small or clerestory; (e) second story windows facing adjacent residential properties shall be frosted to insure neighbors' privacy; and (f) the design of the building shall satisfy the design standards and guidelines of the SMO.
 - c. The maximum building height allowed with a variance procedure shall be 25 feet. The maximum number of building stories allowed with a variance shall be two stories
- L. *Design Standards.* Additional components that must be given specific attention include the following criteria:
1. *Design Standards for All Properties in the SMO:*
 - a. New construction shall reflect a style consistent with those found in The New Mexico Historic Building Inventory Manual, 1980 and shall be consistent with the styles of Design Guidelines or Manual established by the SMDRB for the SMO and with other historic structures found on the same street segment.
 - b. New construction shall maintain a visual balance and rhythm of the walls, doors and windows along any given street segment.

- c. Manufactured homes shall meet design criteria for new construction to the greatest extent possible without altering the structural integrity of the home. This shall include the style and type of materials forming the exterior facade as well as the type and material of skirting that shall be is compatible in type and materials with adjacent and nearby historic structures.
 - d. Additions and remodeling projects shall utilize materials that are consistent with the character and architecture of the existing structure. The same materials must be used on all sides of a structure.
 - e. Changes in materials on a single structure, such as stucco to wood siding or visa-verse, may be made if the different material is also in keeping with the architecture or character of the structure and does not diminish the historic integrity of the structure to any great extent. Changes in materials must also be consistent with other materials used in the neighborhood.
 - f. Fences/walls shall be of a material that is compatible with the structure or compatible with other fences/walls in the neighborhood.
 - i. Chain link or square wire fencing is prohibited except if used in a small area within the interior of a lot, such as for a dog run or surrounding a private swimming pool, and cannot be viewed from a public street.
 - ii. Existing chain link or square wire fencing may be temporarily removed if necessary, but the same fencing must be replaced exactly as it was.
 - iii. An old chain link or square wire fence may not be replaced with new chain link or square wire fencing; if replaced, the new fence must come into compliance with this Section.
 - iv. If a chain link or square wire fence is damaged through no fault of the property owner, the fence may be replaced exactly as it was.
 - v. The SMDRB has the authority to modify or waive the above wire fence restrictions on a case-by-case basis with a Certificate of Appropriateness.
 - g. Construction fencing must be removed from site within three (3) days of issuance of a Certificate of Occupancy or a Certificate of Completion.
 - h. Dumpsters for commercial or multi-family developments are required to be screened from any streetside facade.
 - i. Second story elements and single-story structures built to the side or rear property lines shall incorporate window types (e.g. clerestory, frosted) and placement in such a way as to protect the privacy of adjacent neighbors.
 - j. Outdoor lighting shall meet the City's Outdoor Lighting Ordinance (Chapter 39 of the LCMC) and light fixtures shall be consistent with the architectural character of the structure and neighborhood. Fluorescent tube lighting fixtures are prohibited.
2. *Design Standards for Structures Listed as Contributing on the State or National Mesquite Street-Original Townsite Historic District Inventory.*
- a. Additions are not permitted to primary façades, it must be set back from the front façade.
 - b. Additions and remodeling projects shall have architectural treatments and styles, features, and details as the existing structure, but shall not duplicate those of the existing structure in a manner that will make the addition indistinguishable from the existing structure. Distinguishing characteristics could include, but are not limited to:
 - i. Setting back the addition from the original structure a distance to be determined by the proposed addition's relation to the scale and form of the original structure;
 - ii. Varying trim, finish texture, facade height, color, etc. to some slight degree;

- iii. Separating the addition from the original structure by a connector;
 - iv. Varying the window or brick pattern from the original.
- c. If applicable, to the extent architecturally practicable, new additions should be attached to any existing noncontributing portion of the structure instead of attaching them to the contributing portion.
- d. The owner shall make every attempt to repair or restore historic windows. Historic windows that cannot be repaired or restored shall be duplicated in size, style, and material of the original to the greatest extent possible. No opening shall be widened or narrowed except as required to comply with building code standards, unless historic documentation supports its prior existence. Vinyl-clad or aluminum windows may be used if they resemble the original windows in size and style. Thermal double pane glass may be used.
- e. Original doors shall be retained, and repaired or restored to the greatest extent possible. If existing doors are beyond repair, new ones shall match the original material and should also be similar in design. Flat surfaced and contemporary doors with small decorative windows shall be avoided. No door opening shall be widened or narrowed except as required to comply with Building Code standards, unless historic documentation supports its prior existence.
- f. Existing porches or portals shall not be enclosed, unless historic documentation supports its prior existence.
- g. No new opening shall be made where one presently does not exist unless historic documentation supports its prior existence. An exception may be made to comply with Building Code standards for egress.
- h. No existing opening shall be enclosed unless historic documentation shows that the existing opening is not original to the structure.
- i. Existing roof styles and materials shall be maintained or replaced in kind. The addition of parapets, canales, or other roof features should only be considered if they are in keeping with the architectural style of the structure.
- j. Specific colors of structure and trim shall not be criteria in evaluating the proposal.
- M. *Installation of Solar Panels or Other Alternative Energy Equipment.* Enhancing the energy efficiency of a historic building is important. To that end, it is often possible to install features such as solar panels and photovoltaic cells provided they are installed in a sensitive manner. However, for some historic buildings, it may not be possible to incorporate solar panels and meet the Secretary of the Interior's Standards for Rehabilitation. The following standards for installation of these systems shall apply:
- 1. Installation of panels must be reversible and not damage the historic integrity of the building and district.
 - 2. Solar panels should be installed on rear slopes or other locations not highly visible from the public right of way whenever possible. Panels should be installed flat and not alter the slope of the roof.
 - 3. Flat roof structures should have solar panels set back from the roof edge to minimize visibility. Pitch and elevation should be adjusted to reduce visibility from the public right-of-way.
 - 4. Use solar panels and mounting systems that are compatible in color to established roof materials. Mechanical equipment associated with the solar panel system should be treated to be as unobtrusive as possible.
 - 5. Use of solar systems in windows or on walls, siding, awnings or shutters should be installed with limited visibility from the public right-of-way.
 - 6. In circumstances where solar collectors are not placed on rooftops, they should only be positioned in limited or no-visibility locations in secondary areas of the property. Use vegetation

or a compatible screen if necessary to further reduce the visual impact of these features on a historic property.

N. *Submittal and Review Process.* The following submittal and review procedures are established to protect persons and property in the South Mesquite Overlay District. Applications shall be obtained from the Community Development Department, Building Permit Section.

1. Buildings/Structures. Prior to the filing of an application for development and/or signs, a pre-application conference to meet with Community Development Department Staff to review the proposal is required.
2. Following the pre-application meeting, the Applicant shall submit one copy of all application materials for the development to the Community Development Department for review. Upon submittal, staff shall review the submittal for completeness. If all the required items have been submitted, the Community Development Department shall deem the application complete and shall begin its review process.
3. The minimum submittal requirements for development proposals shall include the following information that is relevant to the proposal:
 - a. A Development Application, with appropriate materials required for the SMO, as determined by Community Development staff at the pre-application meeting. The submittal shall include a scaled site plan that includes the following, as applicable:
 - i. Property boundaries.
 - ii. Location of all structures.
 - iii. Age of structures.
 - iv. Setbacks of all structures, existing and proposed.
 - v. Parking layout, if applicable.
 - vi. Ingress/egress access points.
 - vii. Areas proposed for landscaping.
 - viii. Surfacing material for impervious surfaces, if applicable.
 - ix. Storm water ponding areas.
 - x. Dumpster location(s).
 - xi. Location of service and loading area(s).
 - xii. Freestanding and attached sign locations where applicable.
 - xiii. North arrow.
 - xiv. Any other information which conveys how the proposal will meet development requirements.
 - b. A statement of objectives to be achieved by the development, inclusive of a description of the character and anticipated use of the proposed development.
 - c. If the structure is listed as contributing on the State or National Mesquite Street—Original Townsite Historic District inventory, a description of the known history of the structure shall be included. Photos are encouraged to support the purpose of the application.
 - d. Scaled elevations or renderings which are detailed enough so that a realistic picture is given of the proposed project to a close approximation of the finished project. It should be apparent from the submission that the design criteria herein have been met to the greatest extent possible. Color architectural/artistic renderings shall:
 - i. Reflect all aspects/views of the exterior of the structure

- ii. Demonstrate the use of building materials through the drawings or with a legend or an attached list.
 - iii. Detail the fenestrations, other building openings, rooflines, ornamentation, woodwork, and other features of the structure.
 - e. If required, the Applicants shall present their proposal to the South Mesquite Design Review Board at a public hearing. At that time, a formal decision by the Board regarding the proposed project will be made and a Certificate of Appropriateness or Letter of Denial will be issued by staff within five (5) days. This record of the Board decision shall be entered into the Case File for reference by building inspectors, plan examiners and other relevant City staff. Public hearing procedures and notice requirements will follow that of the Planning and Zoning Commission found in Section 38-10.D.3.
 - f. Those projects not required to be reviewed by the SMDRB shall be reviewed by Community Development staff using the same criteria and procedures found herein.
 - g. A scaled landscaping plan shall include:
 - i. Location, size, and common name of all landscaping
 - ii. A complete irrigation plan shall be included, clearly identifying how the landscape will be sustained.
 - h. Community Development staff shall insure that the Applicant satisfies any conditions of approval stated in the Certificate of Appropriateness (C of A); if the Applicant proposes any changes to the project involving architectural or structural elements, location or materials that alters the C of A approval conditions, the Applicant shall submit revised plans for review by the Board. If the Community Development staff, upon inspection prior to issuance of a Certificate of Occupancy or Completion, notices that the Applicant changed a design element that is inconsistent with the C of A, the Applicant shall submit a revised plan showing the changed element and the Board shall review the change to see if it meets the SMO design guidelines, standards and criteria. The Board shall have the authority to recommend to the City's Building Official that the substituted element be removed and replaced with one that is approved by the Board.
- 4. Variances. A variance shall be defined as a variation in the numerical requirements of the 2001 Zoning Code, as amended, or the Sign Code. Numerical variances to the clear-sight-triangle requirements shall be considered, reviewed, denied, or approved by the Public Works Director or designee. Height exceptions may be granted by the SMDRB pursuant to the provisions and design guidelines of subsections D and K.5. The Flexible Development Standard provisions of Section 38-56 of the 2001 Zoning Code, as amended, are applicable to the SMO provided that the Applicant for the waiver or exception submit the request to the SMDRB for a recommendation to the Director of the Community Development Department.
- O. *Demolition.* To preserve the character of the State and National Mesquite Street-Original Townsite Historic Districts and surroundings, this ordinance creates a sixty (60) day demolition permit application review process that will allow time for interested parties to explore alternatives to the demolition of historic structures.
 - 1. Property owners intending to demolish any structure located within the SMO must adhere to the following 60-calendar day process. The Applicant may withdraw the permit application at any time with a written notice to the Director of the Community Development Department.
 - 2. Demolition permit applications shall be submitted to the Community Development Department prior to any demolition activity taking place. During the 60-day review, Community Development Department staff will review the application for compliance with the Las Cruces Building Code (Chapter 30 of the LCMC).
 - 3. A proposal for redevelopment of the property, with elevations, must accompany the permit application; this proposal shall describe a potential or proposed development proposal for the property, and whether it is proposed for the near or distant future.

4. Prior to the demolition of a structure designated as Contributing within the State or National Historic District, the Applicant shall be responsible for fully documenting the structure, both interior and exterior, to provide a permanent record, in accordance with documentation procedures as follows. The demolition permit will not be approved without submittal and approval of this documentation by Community Development staff:
 - a. Completion of the New Mexico Historic Cultural Properties Inventory (HCPI)-Form, available in the Community Development office and online.
 - b. Photographing the property: Take several photos (front, rear, sides, close-up views, details, setting, etc.) of the historic structure proposed for demolition (primary structure and/or each historic accessory structure, such as a garage, sheds, etc.) Buildings that are not listed on the historic register need not be included. For more information on documentation, please refer to the National Register Photo Policy Fact Sheet available in the Community Development Department and on-line.
 - c. If known, a short history of the property should be included, in order to document how that property fits within the historic district or community.
 5. Posting: At the beginning of the 60-day review process, the Community Development Department will prepare a public notice sign that is to be posted by the Applicant in a conspicuous place on the property. The Applicant is responsible for ensuring that it is in place for the entire 60-day period. The Department will publish a legal notice describing the proposed demolition and contact information for the Applicant. A fee shall be charged to the Applicant for the cost of the public notice.
 6. At the beginning of the 60-day review process, the Community Development Department will inform the SMDRB, neighborhood associations, the New Mexico State Historic Preservation Office (SHPO), and other pertinent organizations or interested parties that a demolition permit has been applied for.
 7. A demolition permit shall be issued upon the completion of the following items:
 - a. The completion of the 60-day period;
 - b. Documentation of the structure as described above; and
 - c. The application meets all City Code requirements and has been approved by the Community Development Department Staff. (Code compliance comments regarding the proposed demolition may be resolved within the 60-day time period).
 8. Compliance with the procedure set out in this Section may be waived by the City Manager or designee if it is determined that immediate demolition of a historic structure is necessary to remove a hazard to the health, safety, and welfare of the public. In such a case, the Community Development Department shall immediately notify the SMDRB, neighborhood associations, SHPO, and other pertinent organizations and interested parties that demolition of the structure is imminent.
- P. *Appeals.* In the South Mesquite Overlay District, any applications for development must be approved by the City in order for a use permit, building permit or sign permit to be issued. If required by this Section, review and approval by the SMDRB must precede issuance of a permit.
1. A decision made by staff may be appealed by any aggrieved person to the SMDRB. Such appeal must be made in writing within 15 calendar days of the staff decision. The appeal will be presented to the SMDRB at their next regularly scheduled meeting.
 2. A decision made by the SMDRB may be appealed by any aggrieved person to the Planning and Zoning Commission after all other procedures established by this Code have been exhausted. Such appeal must be made in writing within 15 calendar days of the Board's decision in accordance with Chapter 38-13 of the LCMC.
 3. A decision made by the Planning and Zoning Commission may be appealed by any aggrieved person to the City Council after all other procedures established by this Code have been

exhausted. Such appeal must be made in writing within fifteen (15) calendar days of the Commission's decision in accordance with Chapter 38-13 of the LCMC.

4. Any person aggrieved by a determination of the City Council may appeal to the District Court within 30 days after the determination made by City Council, in accordance with Section 38-14 of the LCMC.
 5. A request that is denied by the Board and/or City Council shall not be resubmitted or reconsidered for a period of one year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six (6) months after such denial decision.
- Q. *Enforcement of Overlay Zone District.* Provisions to enforce this Section shall be consistent with the Enforcement Provisions of Section 38-16 of the 2001 Zoning Code, as amended.

(Ord. No. 2354, § I, 1-22-07; Ord. No. 2681, § I(Exh. A), 5-6-13; Ord. No. 2765, § I(Exh. A), 10-19-15)