

**RESTRICTIVE COVENANTS  
FOR  
STAR'S END ESTATES**

**The property is subject to the following restrictive covenants and grantees by signing the deed in the space provided below hereby accepts and acknowledges these restrictive Covenants to wit:**

1) All lots in Star's End Estates subdivision shall be for residential purposes only. No structure shall be erected other than single-family dwellings and reasonable structures to accommodate such dwelling shall be allowed, such as storage buildings, pump-house, detached garages, *and observatories. No structures other than those for astronomical use (observatories, piers, covers etc) will be permitted on the area designated as 'Observatory sites' on the plat map, excepting Lot #'s 2 thru 7, which may be used for residences* (also see sec 16 below).

2) *No structures shall be erected or permitted to remain on any lot nearer than fifteen (15) feet to any lot line for the purpose of these covenants. Eaves, steps, open porches/decks shall not be considered as part of the building. No structure shall be built that will obscure the sky view of an observatory on any other lot* (also see sec 16 below).

**3) No dwelling shall be permitted on any lot having a ground square foot area less than twelve hundred (1200) square feet of heated living space, excluding porches/decks and garages.**

4) No trailers, mobile homes, basements, tents, shacks, garages, barns or other outbuildings shall at any time be used as a residence, temporary or permanent, nor shall any residence of a temporary character be erected or permitted to remain, excluding temporary buildings or trailers used during the course of construction. Construction time shall not exceed one year from the start of construction.

**5) No obnoxious or offensive activity shall be carried out on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. The intent herein includes but is not limited to, the harboring of any species of animal or animals in a manner that is offensive to other lot owners through unreasonable noise, vision, smell, damage or annoyance to other lot owners or their property. *No large domestic animals (defined as horse, cow, bull, sheep, swine, or goat) shall be allowed.***

6) All systems, facilities and methods for the handling and disposal of refuse and garbage shall be in compliance with state and county health codes and regulations. *Trash fires and incinerators will not be permitted to preserve the sky clarity required for astronomical observations* (also see sec 16 below).

7) All chimneys, flues, or other vents used in conjunction with open fire heating shall be equipped with spark arresters and comply with state building codes. *No wood burning fireplaces shall be allowed to preserve the sky clarity required for astronomical observations (also see sec 16 below), excepting Lot # 1 which has an separately located observing site.*

8) *Deleted, see sec 6 regarding brush and trash burning.*

9) The natural terrain and trees are to remain unmolested except where required for construction and access to the property and dwelling. Live trees having a diameter of ten inches or more may not be removed except where required for construction and access. *Tree clearing for the purpose of establishing and maintaining a clear observing horizon at the designated observing lot areas is excepted; each lot owner will be responsible for the removal of trees that obstruct the horizon from the designated observing area in the development.*

10) No commercial activity shall be conducted on any lot other than occupations or professions conducted by a member of a family residing upon the premises wherein such activities are not a nuisance or annoyance to the neighborhood and provided that no electrical or mechanical equipment, machinery and materials are used in a manner to create a nuisance or disturbance to the neighborhood.

11) *Propane, fuel* and water storage tanks must conform to state and/or county codes and must be discreetly located to minimize and preclude their intrusive characteristics upon the view of other property owners.

12) There shall be no hunting or trapping of any species or class of wildlife indigenous to or migrating thru the area. *Private roads will not be used for access to the adjacent National Forest by non-residents and signs will be posted to that effect.*

13) No tract shall be divided into smaller parcels

14) No lot owner shall maintain or keep on the premises more than two (2) four-wheeled vehicles which are not garaged and no inoperable equipment or motor vehicle may be kept on said premises unless said motor vehicle or equipment is garaged and out of sight. *Off road use is not permitted except by owners on their own lots for maintenance purposes.*

15) No signs whatsoever which are visible from neighboring property or subdivision roads shall be erected or maintained on any lot except:

- a) Signs as may be required by legal proceedings;
- b) During the time of construction of any residence or other improvement, one job identification sign not larger than three (3) square feet;
- c) Not more than one for sale sign which shall not be larger than three (3) square feet;
- d) One name and address sign which shall not be larger than three (3) square feet;
- e) One name and address sign for an observatory or observing site, not larger than three (3) square feet.

**16) Astronomy-related deed restrictions/covenants**

*(replaces original Sky Country language)*

The value of this particular development as intended for owners with astronomy-related interests is dependent on the preservation of an observing environment suitable for visual and photographic/electronic imaging of celestial objects. The developers have designed the individual observatory/home lots to maximize their utility for astronomical observations and the proposed deed restrictions/covenants are intended to preserve and enhance the value of this property for these purposes.

These covenants will apply to the properties identified as lots 1 thru 17, also to lots 18 thru (TBD) as noted.

- a) All lots must comply with the current requirements of the NM State light pollution statutes and regulations for new construction. Lot # 1 will comply retroactively to these state restrictions. Appendix (TBD) shows the State and locally mandated lighting restrictions.
- b) Lots 2 thru 17 do not permit wood burning fireplaces/stoves/heaters. Gas or electric heating of all non-polluting types is allowed.
- c) Lots 2 thru 17 will not emit artificial lights where they can be seen from the observing sites. (Lot #1 is sufficiently distant from the designated observing areas

that otherwise conforming non polluting lighting will not interfere with the observing sites.

d) Driving on the observatory site's top access road at night is not permitted except in emergencies or coordinated with other observing area users.

e) Red low wattage/voltage lights will be used to mark driveways and walkways on lots 2 thru 17 where required for safety purposes and visible from the observing sites.

f) Houses and other permanent structures on lots 8 thru 18 will not obstruct the visible horizon as seen from the observing sites from these lots. Lots 1 thru 7 have building locations adjacent to their observing sites that will not interfere with the designated observing areas for the other lots.

g) Wood burning fireplaces, firepits, campfires, and appliances are not permitted on Lots 2-17 because of the potential for smoke pollution of the observing area. Propane and/or electric heat/appliances are permitted, including gas fired fireplaces, stoves and heaters. Open flame charcoal or propane fired barbecue pits are permitted.

h) The area designated as the observing site clear-cut will be kept free of trees to present the visibility of the natural horizon.

**The covenants and restrictive covenants are to run with the land and shall be binding on all parties and all persons claiming under them, if the parties hereto, or any of them, or their heirs and assigns, shall violate or attempt to violate any of the covenants or restrictions contained herein, it shall be lawful for the property owners, their successors or assigns, in said development or subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenant or restriction and either to prevent him or them from so doing or to recover damages or other dues for such violation, including reasonable attorney fees for bringing such action. Invalidation of any one of these covenants by judgment or court order shall in no way affect any *of the others*.**

**After ten (10) years after the filing date of these restrictive covenants, *they* may be altered, or amended or repealed by seventy-five percent (75%) vote of the owners of a fee or the equitable title, when purchased under a contract, with each owner being entitled to one (1) vote per lot owned.**

*Deleted portions about votes per acre as this would be unfair considering the purpose of the development, namely suitability for astronomical observing in which each owner should have an equal voice.*

## The Outdoor-Lighting Ordinance of Cloudcroft, NM

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Below is the outdoor-lighting ordinance for the town of Cloudcroft, New Mexico, which was formally approved and adopted at the June 1995 meeting of the Cloudcroft Village Council. The Ordinance (No. 267) had been pre-published three times in the Newspaper before final adoption. Only one minor objection was registered from a citizen, who, however, did not attend the final adoption meeting. Supplied courtesy of Warren Offutt, who wrote it:

(Warren Offutt is also a local amateur astronomer)

### ORDINANCE NO. 267

AN ORDINANCE ADOPTING A NEW CHAPTER 7, ARTICLE 7 TO THE CLOUDCROFT CODE REGULATING THE INSTALLATION OF OUTDOOR LIGHTING.

BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF CLOUDCROFT, that a new Chapter 7, Article 7 to the Cloudcroft Code is adopted to read as follows:

#### 7-7-1 Purpose and Applicability.

- (a) The purpose of this ordinance is to improve nighttime public safety, utility and security by restricting the night-time emission of light rays which are the source of light trespass and/or unnecessary glare, and/or are detrimental to the safety and/or security of persons, property or vehicular traffic, and/or are detrimental to the traditional aesthetic values of the Village, and/or unnecessarily restrict persons from the peaceful enjoyment of their property, and/or are detrimental to astronomical observations. The provisions of this chapter shall apply to all outdoor lighting devices for illumination or advertisement and installed after the effective date of this ordinance, except as hereinafter otherwise specified.
- (b) The provisions of this chapter, except for Section 7-7-5 (a) and Section 7-7-5 (c), do not apply to glass tubes filled with neon, argon or krypton, or to outdoor advertising signs constructed of translucent material and illuminated wholly from within.

However, after January 1, 1998, newly installed or replaced outdoor advertising signs constructed of translucent material and illuminated wholly from within shall be of the type having dark background with bright/colored characters. Such signs having bright background with dark or colored characters shall not be installed after January 1, 1998.

#### 7-7-2 Effect on Other Codes.

The provisions of this ordinance are intended to supplement other applicable codes and requirements. Compliance with all applicable provisions of building, electrical and other codes must be observed. In the event of a conflict between the requirements of this code and other requirements, the more stringent requirement shall apply.

#### 7-7-3 Shielding.

General Requirements. Except as otherwise provided below or in Section 7-7-1 (b) above, all outdoor lighting devices or fixtures shall be shielded in such a manner that light rays emitted by the device or fixture, whether directly from the lamp or indirectly from the fixture, are restricted to regions below an angle 15 degrees beneath the horizontal plane running through the lowest point on the fixture where light is emitted. No significant intensity of light shall be emitted from the fixture horizontally, nor above the horizon, nor above the region defined above.

In general, all outdoor lighting shall be downward directed except where specified otherwise in this Chapter.

(Note: Luminaires meeting restricted emission requirements are sometimes described commercially as hooded, shielded, or full cut-off fixtures, however, not all luminaires so designated meet the above angular requirement.)

#### 7-7-4 Light Pollution; General Requirements.

- (a) One hundred twenty (120) days following the effective date of this ordinance, only shielded outdoor light fixtures which conform to the requirement of Section 7-7-3 may be installed.
- (b) After the effective date of this ordinance, only shielded, low pressure sodium outdoor lighting fixtures may be newly installed to provide illumination for public streets.

However, in the event that the Otero County regulations permit high pressure sodium lamps for general street and highway lighting, or for other good and sufficient reasons, high pressure sodium lamps may be used instead of the low pressure sodium lamps as specified in this paragraph (b) upon written approval of the Village Council.

In the case of the replacement (see Section 7-7-6) of light fixtures installed to provide illumination for public streets, if existing circuitry does not permit replacement of an individual light fixture with a low-pressure sodium light fixture, high pressure sodium may be used instead.

Regardless of lamp or fixture type, the shielding requirements of Section 7-7-3 are applicable. Additional shielding to eliminate light trespass onto adjoining residential properties shall be installed if requested by the residential property owner or occupant.

(c) All outdoor light fixtures maintained on public or private property, whether installed before, on or after the effective date of this ordinance, shall be turned off between 11:00 PM (local time) and sunrise except when used for:

- (1) Commercial and industrial uses (such as sales, assembly and repair areas) where business is conducted after 11:00 PM, but only while the business is open to the public;
- (2) Illuminated advertising signs on the premises of a business while it is open to the public;
- (3) Lighting necessary for security purposes or to illuminate walkways or roadways;
- (4) Recreational use that continues after 11:00 PM, but only for so long as such use continues.

(d) The outdoor operation of searchlights, lasers or other high-intensity beams is prohibited.

#### 7-7-5 Other Requirements.

(a) Flashing Lights. The use of flashing, rotating or pulsating lights in/on any outdoor sign or other lighting device is prohibited after one (1) year from the effective date of this ordinance. This provision shall not apply to flashing, rotating or pulsating lights intended to warn of hazards and danger.

(b) Light Trespass and Residential spill-over. In addition to the general provisions of this Ordinance, offstreet lighting shall be shielded and/or directed in such a manner that it illuminates only the user's premises and does not spill over into neighboring residential areas so as to interfere with the peaceful enjoyment of residential or public properties.

(c) No lighting fixture or device may be operated in such manner as to constitute a hazard or danger to persons, or to safe vehicular operation.

(d) Signs and BillBoards. Illuminating fixtures for advertising or other signs shall be such that the illumination is confined to the area of the sign or billboard; no significant direct spill-over is permitted. Under no conditions may signs or billboards be illuminated from below. Any such illuminating fixture shall be placed above its respective sign or billboard such that the secondary (specular) reflected light from the surface of the sign or billboard is directed down toward the ground.

(e) Motion Detector Security Lights. Motion detector security lights, which are normally "off" and which are activated "on" for less than 4 minutes occasionally when motion is detected, are exempt from strict control of emission angles as defined in Section 7-7-3, but are not exempt from Sections 7-7-5 (b) or (c).



(f) Outdoor Recreational Facilities. Outdoor recreational facilities designed for specifically scheduled sporting events are exempt from the specific shielding requirements of Section 7-7-3. In its place, lighting for outdoor recreational facilities shall be so designed, installed and operated as to confine at least 90 percent of the illumination to the recreational area. Recreational facility fixtures shall be on elevated poles or structures so that illumination is directed downward. No significant illumination may extend above a horizontal plane from the lighting fixture. Illumination from recreational facility fixtures shall be shielded to minimize glare extending toward roadways or other places where impairment of motorists' vision might cause hazard. All such recreational facilities shall have either (a) automatic shut-off timer devices, or (b) a designated official with responsibility for extinguishing the illumination at close of the recreational activity.

(g) In the case of flags, statues or other top-of-pole mounted objects which cannot be illuminated with down-lighting, upward lighting may be used only in the form of one narrow-cone spotlight which confines the illumination to the object of interest.

7-7-6 Nonconforming Fixtures "Grandfather Provision". Except as provided in Section 7-7-5, all outdoor lighting fixtures existing and legally installed and operative before the effective date of this ordinance are exempt from the requirements of this Ordinance. Whenever a nonconforming fixture is replaced or moved, the replacement thenceforth shall meet the requirements of this ordinance.

#### 7-7-7 Special Exemptions.

(a) Decorator lamps smaller 25 watt rating, or strings of up to 25 such lamps, used for holiday decorations are exempt from the requirements of this Chapter within 15 days of recognized annually occurring holidays.

Decorator lamps smaller than 7.5 watt rating may be used in any desired string length under the same circumstances.

(b) Request for temporary exemption from the provisions of this Ordinance may be submitted to the Village Council in written form describing the reason for the request and the nature of the request. If approved and granted in writing by an authorized representative of the Village Council, such exemption shall be in force for not more than 30 days. Request for a maximum of one 15 day renewal may be made in similar manner.

7-7-8 The installation, sale, offer for sale, lease or purchase of any fixture not in conformance with this Ordinance is prohibited after January 1, 1998.

The installation, sale, offer for sale, lease or purchase of any mercury vapor lamp or lamp fixture for outdoor use is prohibited after January 1, 1998.

7-7-8 Effective Date. The effective date of this ordinance shall be five (5) days after the publication of Notice of Adoption by title and general subject matter in the Alamogordo Daily News.

7-7-9 Penalty. Violations of this ordinance shall be subject to the general penalty provisions contained in Section 1-1-8 of the Cloudcroft Code.

7-7-10 Severability. The provisions of this ordinance are severable, and if any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provisions or applications.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 1995.

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Mayor

ATTEST:

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Village Clerk

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## NEW MEXICO LIGHT-POLLUTION LAW

On April 6th, New Mexico Governor Gary E. Johnson signed a state-wide light-pollution bill into law. State Representative Pauline K. Gubbels introduced the Night Sky Protection Act in January in order to "regulate outdoor night lighting fixtures to preserve and enhance the state's dark sky while promoting safety, conserving energy and preserving the environment for astronomy." Both legislative houses passed the bill by a wide margin. The law states that outdoor-lighting fixtures of more than 150 watts must be shielded, or they must be turned off between 11 p.m. and sunrise. Furthermore, after January 1, 2000, mercury-vapor lamps cannot be sold or installed.

### HOUSE BILL 39

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Pauline K. Gubbels

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE NIGHT SKY PROTECTION ACT;  
PROVIDING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Night Sky Protection Act".

Section 2. PURPOSE.--The purpose of the Night Sky Protection Act is to regulate outdoor night lighting fixtures to preserve and enhance the state's dark sky while promoting safety, conserving energy and preserving the environment for astronomy.

Section 3. DEFINITIONS.--As used in the Night Sky Protection Act:

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

B. "shielded" means a fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected at least fifteen degrees below a horizontal plane running through the lowest point on the fixture where light is emitted.

Section 4. SHIELDING OF OUTDOOR LIGHT FIXTURES.--All outdoor lighting fixtures shall be shielded, except incandescent fixtures of one hundred fifty watts or less and other sources of seventy watts or less.

Section 5. NONCONFORMING LIGHT FIXTURES.--

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

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

Section 6. USE OF MERCURY VAPOR LIGHTING FIXTURES.--No new mercury vapor outdoor lighting fixtures shall be sold or installed after January 1, 2000. No replacement equipment or bulbs for mercury vapor lighting fixtures shall be sold in the state after January 1, 2001.

Section 7. EXEMPTIONS.--

A. The following are exempt from the requirements of the Night Sky Protection Act:

(1) outdoor lighting fixtures existing and legally installed prior to the effective date of the Night Sky Protection Act; however, when existing lighting fixtures become inoperable, their replacements are subject to all the provisions of the Night Sky Protection Act;

(2) outdoor lighting fixtures used on land or facilities under the control of the federal government; and

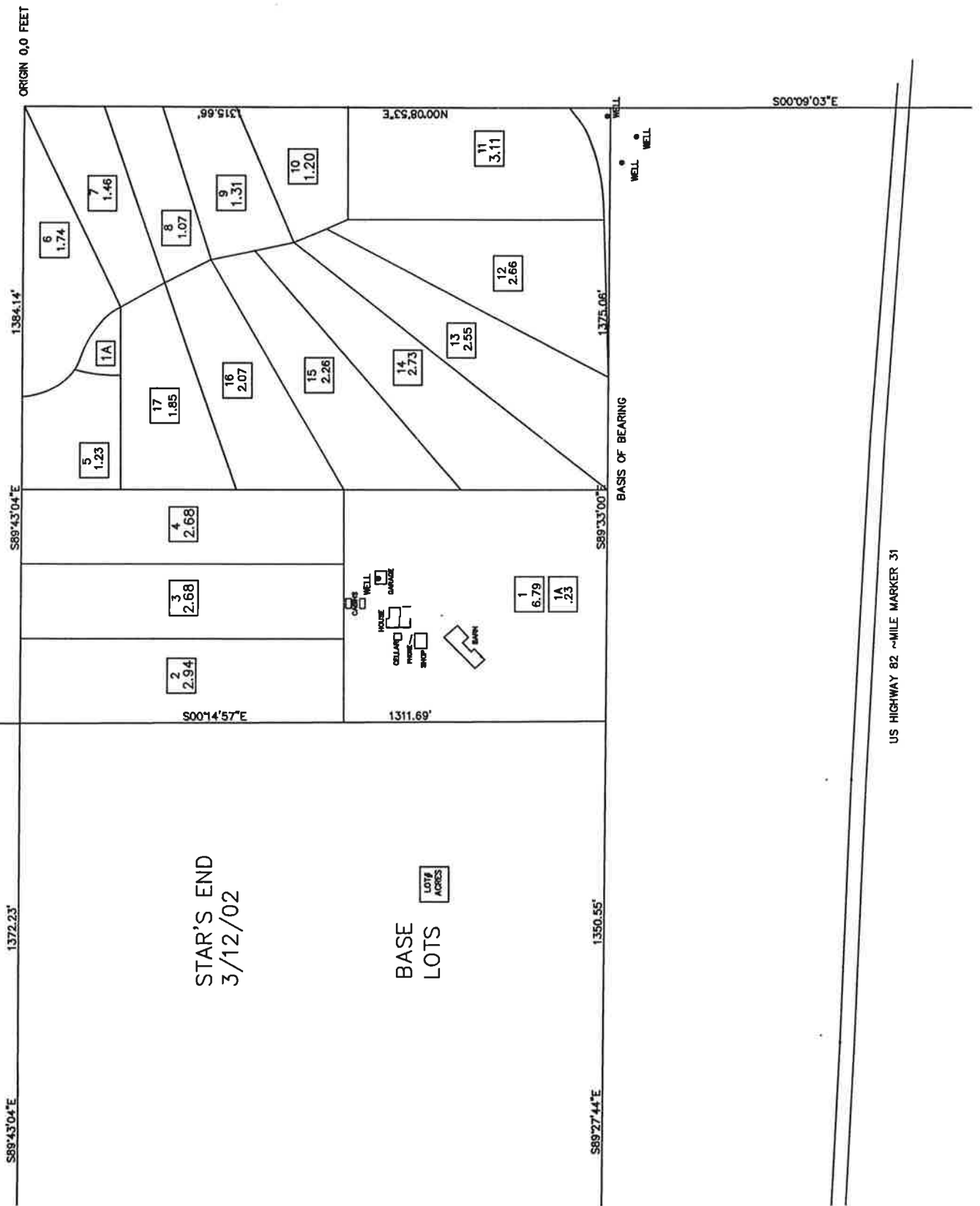
(3) navigational lighting systems at airports and other lighting necessary for aircraft safety at airports.

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

Section 8. CONSTRUCTION INDUSTRIES DIVISION--

DUTIES.--The construction industries division of the regulation and licensing department shall review the outdoor lighting provisions in the uniform building codes used in New Mexico and make recommendations for appropriate changes to comply with the provisions of the Night Sky Protection Act.

Section 9. VIOLATIONS--PENALTY.--Any person, firm or corporation violating the provisions of the Night Sky Protection Act is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978 .



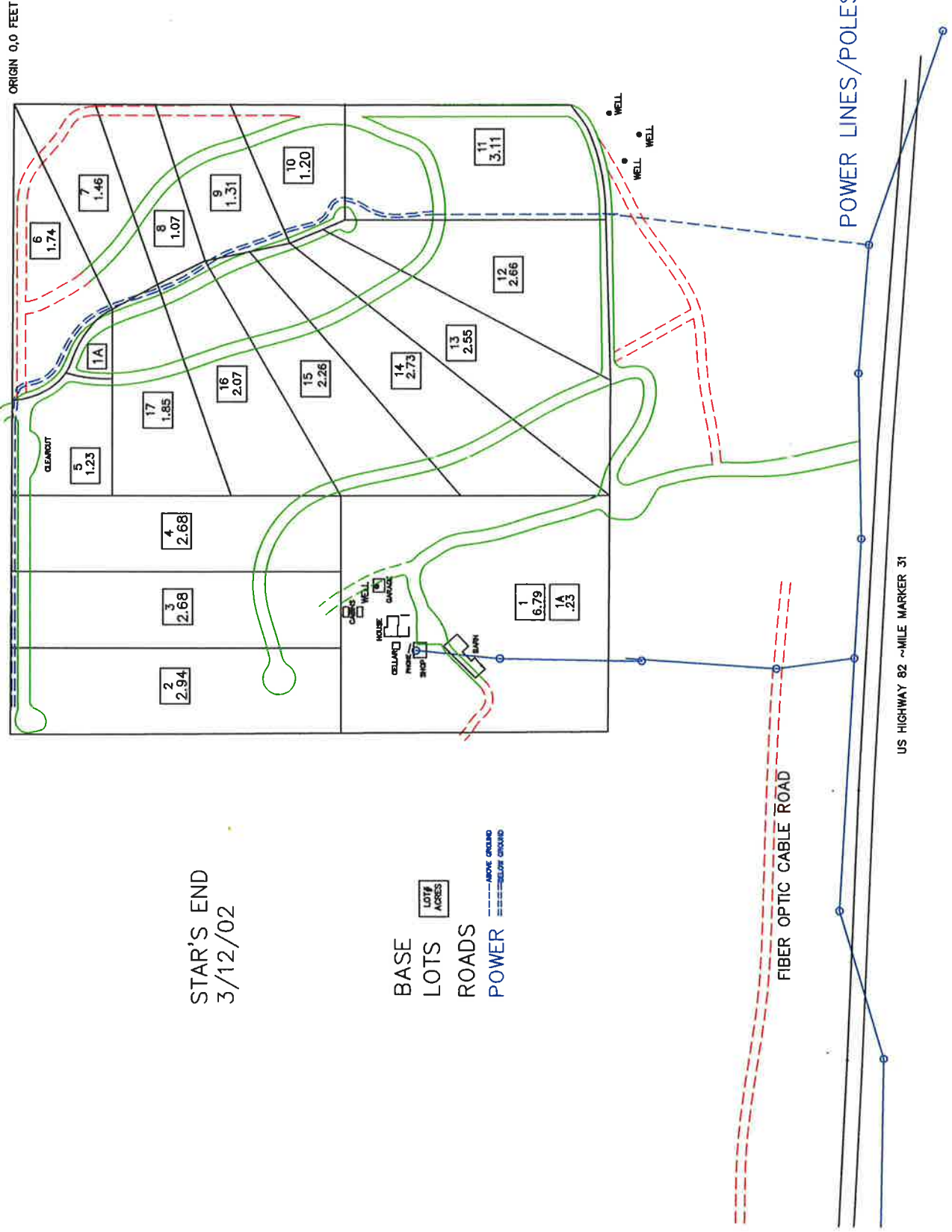
US HIGHWAY 82 ~MILE MARKER 31

STAR'S END  
3/12/02

BASE  
LOTS  
ROADS  
POWER

LOT#  
ACRES

--- ABOVE GROUND  
--- BELOW GROUND

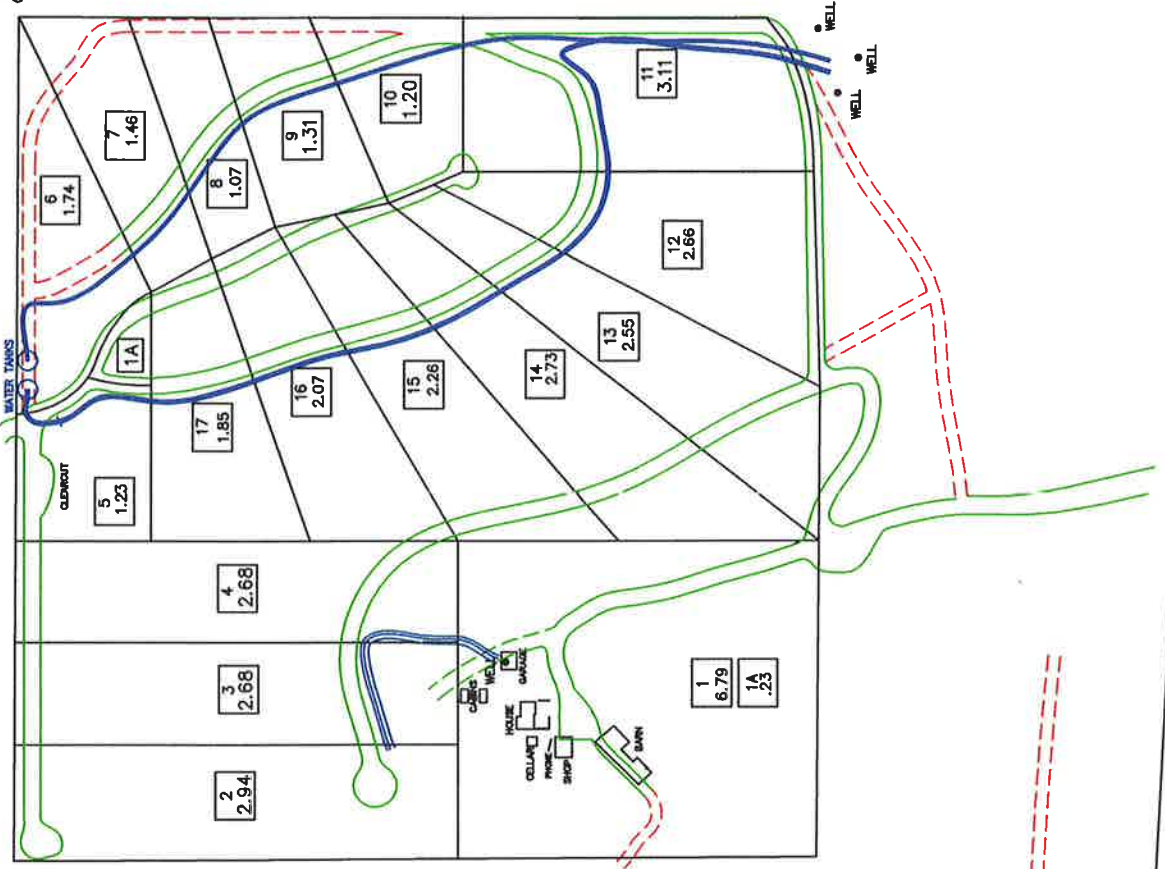


STAR'S END  
3/12/02

BASE  
LOTS  
ROADS  
WATER

LOT  
#/ACRES

ORIGIN 0.0 FEET



US HIGHWAY 82 ~ MILE MARKER 31