

**VILLAGE OF RUIDOSO
NOTICE OF WORKSHOP MEETING**

Notice is hereby given that Lynn D. Crawford, Mayor of the Village of Ruidoso, has called a Workshop Meeting of the Governing Body of the Village of Ruidoso for Monday, April 22, 2024 at 10:30 AM. The Workshop Meeting will be held at 313 Cree Meadows Dr. Ruidoso NM, 88345. The purpose of the Workshop Meeting is as follows:

CALL TO ORDER.

MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE/SALUTE TO THE STATE FLAG.

Salute to the State Flag: "I Salute the Flag of the State of New Mexico, the Zia Symbol of Perfect Friendship Among United Cultures."

ROLL CALL.

AGENDA ITEMS:

1. Discussion on Chapter 54 Re-Write.

ADJOURN.

I certify that notice has been given in compliance with Sections 10-15-1 through 10-15-4 NMSA 1978 and 2024-01. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Village Clerk at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Village Clerk if a summary or other type of accessible format is needed.

Jini S. Turri, MMC, Clerk

AGENDA MEMORANDUM

Village of Ruidoso

Agenda Item - 1.

To: Mayor Crawford and Councilors

Presenter(s): Stephanie Warren, GIS Coordinator/Planner
Phyllis Taylor, Sites Southwest

Meeting Date: April 22, 2024

Re: Discussion on Chapter 54 Re-Write.

Item Summary:

Discussion on Chapter 54 Re-Write.

Financial Impact:

None

Item Discussion:

Discussion on Chapter 54 Re-Write.

Recommendations:

None

ATTACHMENTS:

Description

Presentation

Chapter 54 Draft

Chapter 54 Draft - No Markup

Chapter 54 Update 2023

Village of Ruidoso

Planning & Zoning Commission

April 4, 2023



Project Goals

- Unified code that streamlines land use procedures, definitions
- Clear document organization and formatting for ease of use
- Clarify procedures
- Eliminate conflicts
- Update definitions, uses, and standards, as needed

Code Update Process

Summer 2021	Fall 2021 to Summer 2022	Fall 2022 to Spring 2023	Spring 2023 to Fall 2023	Winter 2023 to Spring 2024	Summer 2024
<ul style="list-style-type: none">• Review ordinance and recommend updates	<ul style="list-style-type: none">• Stakeholder meeting• Administrative Draft<ul style="list-style-type: none">• Module 1. General Provisions & Administration• Module 2. Use Regulations	<ul style="list-style-type: none">• Administrative Draft<ul style="list-style-type: none">• Module 3. Procedures• Module 4. Additional Regulations	<ul style="list-style-type: none">• Public Review Draft<ul style="list-style-type: none">• 7 P&Z Hearings to Discuss and Modify Each Module	<ul style="list-style-type: none">• Revise Public Review Draft• Produce Council Review Draft• Village Council Workshop	<ul style="list-style-type: none">• Complete final revisions• Finalize format• Insert all links• Insert all process graphics

Module 1- Division 1: General Provisions

CURRENT ORDINANCE-ARTICLE II

- General
- Definitions
- Purpose
- Statutory Authority
- Relationship of article to comprehensive plan
- Zoning district map
- Application fees (moved to Administration)
- Violations, penalties, additional remedies (moved to Administration)
- Application review process (moved to procedures)

NEW ORDINANCE

- Statutory Authority
- Purpose
- Applicability
- Relationship to adopted plans
- Zoning Districts: Map
- Interpretation of Article and Conflicting Provisions
- Severability

Module 1- Division 2: Administration

CURRENT ORDINANCE

Includes procedures with definition of roles

- Planning Commission
- Appeals to Council
- Planning Administrator
- Amendments
- Rezoning
- Variances
- Site plan and concept approval
- Conditional use approval
- Planned unit development approval
- Annexations
- Vacation of right of way or easement

NEW ORDINANCE

Defines roles, consolidates procedures in Module 3

- Village Council
- Board of Appeals
- Planning and Zoning Commission
- Community Development Department
- Planning Administrator
- City Attorney
- Judicial Relief; Appeals
- Application Fees
- Violations, Penalties, Additional Remedies

Module 1- Division 3: Definitions

CURRENT ORDINANCE

- Definitions are in general provisions

NEW ORDINANCE

- Added definitions for new use types (mobile vending, cannabis, etc.)
- Updated definitions where outdated

Module 2 – Use Regulations: Division 4

Zoning Districts

- General Districts Defined
- Districts-for each district
- Purpose
- List of permitted and conditional uses
- District standards
- Dimensional standards

NEW ORDINANCE

- General Districts Defined
- Organization of Regulations
- For each district:
 - Purpose*
 - District Standards*
 - Dimensional Standards*
 - In-text links to other applicable regulations*

Module 2-Use Regulations

CURRENT ORDINANCE

- Uses are listed under each district
- Result is inconsistency in how uses are named and conflicts among districts

NEW ORDINANCE

- General Provisions
- Use Table
- Use Specific Standards
- Added New Uses (mobile vending, cannabis uses)
- Simplified Some Uses (manufacturing, utilities)

Module 2-Division 5: Use Regulations

Use Table

CURRENT ORDINANCE

- Uses and use specific standards are listed under individual zoning district sections
- Inconsistent terminology and use standards between districts
- Does not facilitate easy reference

NEW ORDINANCE

- Consolidated table lists permitted, conditional, accessory, and temporary uses by zoning district
- In-text links to use specific standards
- Uses grouped by type to make them easy to find

Use Table

Table 54.53.1 Allowable Uses

P = Permitted Use C = Conditional Use A = Accessory Use T = Temporary Use Blank means use is not allowed in the district																
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD	Use Standards
Agricultural Uses																
Farm and ranch					P											
Plant nursery					P											
Private stables	C				P											
Cannabis producer					P						P	P				Sec. 54-55(a)(1)
Cannabis producer microbusiness					P							P				Sec. 54-55(a)(2)
Residential Uses																
Single family dwellings	P	P			P	P	P	C					P	P		Sec. 54-55(b)(1)
Two-family dwelling	C	P	P					C					P	P		Sec. 54-55(b)(2)
Caretaker quarters								C	C	C	C	C			C	Sec. 54-44(b)(3)
Multifamily dwellings		C	P	P	P	C	C	P	P	C	P		P	P		Sec. 54-55(b)(4)
Mobile home						P	P									Sec. 54-55(5)
Group home			C	C				C	C							Sec. 54-44(6)
Nursing home								C	C							Sec. 54-55(7)
Hospitality/Lodging																
Hotel/motel								P	P	C	C	C		P		Sec. 54-55(c)(1)

Module 3: Procedures

- Procedures are in different parts of the code
- Some procedures are missing or missing key information

- General procedures described once
- Summary table reference
- Specifics for each procedure

Purpose

Criteria for Decision

Process

Processes Defined

- Administrative Review and Decision
 - Sign Permits
 - Certificates of Zoning Compliance
 - Subdivision—Minor
- Review and Decision Processes Requiring a Public Hearing
 - Variance
 - Conditional Use Permit
 - Site Development Plan
 - Planned Unit Development
 - Zone Map Amendment (Zone Change)
 - Subdivision—Major
 - Text Amendment
 - Annexation

Procedures	Planning Administrator (No Public Hearing)	Planning Commission (Public Hearing)	Village Council (Public Hearing)	Code Citations
Certificate of Zoning Compliance	Decision	Appeal	Appeal	Article III Division 8 Division 9 Sec. 54-75 Sec. 54-72
Subdivision – Minor	Decision	Appeal	Appeal	
Sign Permits	Decision	Appeal	Appeal	
Home Occupation	Decision	Appeal	Appeal	
Fences	Decision	Appeal	Appeal	
Landscaping	Decision	Appeal	Appeal	
Building Permits	Decision	Appeal	Appeal	
Telecommunications	Decision	Appeal	Appeal	
Variance				Article VII Sec. 54-60
Conditional Use Permit	Review	Final (2/3)	Appeal	Sec. 54-61
Planned Unit Development				Sec. 54-62
1. Concept Plan	Review	Recom.	Optional	
2. Development Plan	Review	Recom.	Decision	
3. Final Construction Plan	Decision			
Site Development Plan	Review	Decision	Appeal	Sec. 54-63
Zone Map Amendment	Review	Recom.	Decision	Sec. 54-59
Subdivisions - Major	Review	Recom.	Decision	Article III
Text Amendments	Review	Recom.	Decision	Sec. 54-59
Annexation	Review	Recom.	Decision	Sec. 54-64
Vacation	Review	Recom.	Decision	Sec. 54-65

Process Summary

Module 4: Additional Regulations

- Limited Revisions
 - Updated Terminology
 - Added definition of “performance bond” (in definitions)
 - Set value of performance bond at 125% of estimated cost
 - Improvements must be completed and dedicated to the Village prior to issuing building permits (change from certificate of occupancy)
 - Referenced Village road design standards
 - Resolution 2011-28 Referencing standard drawings for public works construction
 - Ruidoso NM Roadway Design Guide, Nov. 2019
- Contents of Module 4
 - Development Standards
 - Signs
 - Home Occupations
 - Subdivisions
 - Flood Hazard Regulations
 - Wildfire Hazard Overlay District
 - Wireless Telecommunications Facilities

Next Steps

- Incorporate Council recommendations
- Update numbering
- Complete links
- Complete graphics
- Final formatting
- Council hearings

Discussion

Thank You!

Village of Ruidoso
Chapter 54 Update
Village Council Workshop Draft
April 22, 2024

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XXXXXXX New Text

XXXXXXX Revisions

XXXXXXX No change, new section number

Chapter 54 – Land Use

ARTICLE II. LAND DEVELOPMENT CODE

DIVISION 1: GENERAL PROVISIONS

Sec. 54-31 STATUTORY AUTHORITY; TERRITORIAL JURISDICTION

This article is created and adopted pursuant to the authority set forth in NMSA 1978, §§ 3-21-1—3-21-11, and shall be applicable to all property within the jurisdiction of the village.

(Code 1985, § 10-1-3)

Sec. 54-32 PURPOSE

The purpose of this article is to encourage the most appropriate use of land and to promote the health, safety and general welfare of the community. The regulations within this article are deemed necessary to:

- (a) Implement the Village of Ruidoso Comprehensive Plan vision and long-range development goals.
- (b) Prevent congestion in the streets and other public rights-of-way;
- (c) Secure safety from fire, panic and other dangers;
- (d) Ensure adequate light and air for all properties;
- (e) Prevent the overcrowding of land and undue concentration of population;
- (f) Facilitate adequate provisions for transportation, water, sewer, schools, parks and other public facilities and reduce the effect of natural hazards;
- (g) Control and abate the unlawful use of structures, buildings or land;
- (h) Protect the public health and general welfare; and
- (i) Encourage the conservation of energy in the use of structures, buildings and land in the village.

Commented [CG1]: Propose adding affordable housing and equity purpose

Regulations within this article are established to provide for the administration of this article, to provide for amendments, to prescribe penalties for violation of such regulations, and to define powers and duties of the village staff, the planning commission and the council in relation to this article.

(Code 1985, § 10-1-2)

Sec. 54-33 APPLICABILITY

The provisions of this Land Development Code apply to all public and private uses and developments within the jurisdiction of the village, except as provided by state or federal law or as otherwise expressly stated in this Land Development Code.

Sec. 54-34 RELATIONSHIP OF ARTICLE TO ADOPTED PLANS

The administration, enforcement and amendments to this article shall be accomplished in accordance with the recommendations contained in the **Village of Ruidoso Comprehensive Plan**, as developed and amended from time to time by the planning commission and the council.

(Code 1985, § 10-1-4)

Sec. 54-35 AMENDMENT TO THE ZONING ORDINANCE

MOVED TO PROCEDURES –LAND DEVELOPMENT CODE TEXT AMENDMENT

Sec. 54-36 OFFICIAL ZONING DISTRICT MAP

(a) *Official Zoning District Map.* For the purpose of this article, the village shall be divided into zoning districts, and these shall be shown on a map entitled the "Official Zoning District Map."

(b) Designation of official zoning districts. The following shall be the official zoning districts:

(1) General districts:

- R-1 Single-Family Residential District
- R-2 Two-Family Residential District
- R-3 Multiple-Family Residential District
- R-4 High-Density Residential District
- AR-1 Agricultural/Residential District
- M-1 Low-Density Mobile Home District
- M-2 Medium-Density Mobile Home District
- C-1 Neighborhood Commercial District
- C-2 Community Commercial District
- C-3 Midtown Commercial District
- C-4 Heavy Commercial District
- I-1 Industrial District

(2) Special districts:

PUD Planned Unit Development District

- (c) *Interpretation of district boundaries.* Where uncertainty exists concerning boundaries of any district shown on the official zoning district map, the following rules shall apply:
- (3) Boundaries shall be construed as the centerline of existing, future or vacated streets, highways, railroads, alleys, drainage or irrigation canals or other public rights-of-way.
 - (4) Where property has been subdivided into blocks and lots, the boundaries shall be construed to be the lot line.
 - (5) Where property is not otherwise designated, divided or subdivided, the boundary line shall be determined by the scaled distance shown on the official zoning district map.
 - (6) No zone boundary line shall hereafter be established to divide one lot into two or more zones unless the size of the lot in question is such that division is determined to be essential by the planning commission and the council.

(Code 1985, § 10-1-7)

Sec. 54-37 INTERPRETATION OF ARTICLE; CONFLICTING PROVISIONS

- (a) Minimum requirements. The provisions of this article shall be considered the minimum requirements to meet the purpose and intent expressed in section 54-32.
- (b) Conflicts with local ordinances. Where the provisions of any local ordinance or covenant impose greater restrictions than those of this article, the more restrictive provisions shall prevail.
- (c) Conflicts with federal and state law. Any provision of U.S. law or state law which imposes a greater duty, standard or requirement than those contained in this article shall supersede the provisions of this article.
- (d) Interpretation of meaning. The planning administrator or his designee shall interpret the meaning of the provisions of this article. Disagreement with an interpretation may be appealed to the planning commission and then to the council.
- (e) Conflicting provisions within article. When two or more provisions of this article are in conflict, the most restrictive provision shall apply.

(Code 1985, § 10-1-6)

Sec. 54-38 SEVERABILITY

If any portion of this Land Development Code is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the Land Development Code and does not affect or diminish the validity of the remainder of the Land Development Code.

DIVISION 2: ADMINISTRATION

Sec. 54-39 VILLAGE COUNCIL

In addition to the powers identified elsewhere in the Village code, the Village Council has the powers and duties that are expressly identified in this Land Development Code, including:

- (a) Approving members of the planning and zoning commission as provided by Village code;
- (b) Serving as the Board of Appeals;
- (c) Taking final action on Land Development Code text amendments, zoning map amendments, major subdivisions, PUD development plans, annexation and vacation requests;
- (d) Taking such other actions not expressly delegated to the planning and zoning commission or others under this Land Development Code, as the Village Council may deem desirable and necessary to implement the provisions of the comprehensive plan and this Land Development Code.

Sec. 54-40 BOARD OF APPEALS

- (a) *Designation of board of appeals.* The village council shall serve as the board of appeals.
- (b) *Notice of appeal.* Any aggrieved person or any officer, department, board or bureau of the village affected by a decision of the planning commission may appeal to the council by filing a notice of appeal with the planning administrator. The notice shall be on a form prescribed by the planning administrator, shall state the name and address of the applicant, and shall specify the error in the decision made by the planning commission in the enforcement of this article or of any ordinance adopted pursuant thereto. The notice shall be filed within 15 days of the decision which is being appealed. Within ten working days of receipt of the appeal, the planning administrator shall forward the notice of appeal to the village clerk along with a request to schedule a hearing on the appeal before village council. Prior to the hearing the planning administrator shall provide the village clerk with copies of all the documents constituting the record of the case appealed, and such further facts as may be pertinent or material to show the grounds of the decision appealed including the approved minutes of the planning commission meeting at which action on the application was taken. The planning administrator shall give written notice of receipt of an appeal to the applicant, the appellant, a representative of the opponents if any are known, and to any other parties who have requested to be so informed. Said notice shall be mailed by regular mail within ten working days of receipt of the appeal.
- (c) *Stay of proceedings.* The filing of a notice of appeal shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, committee or board from whom the appeal is taken certifies that, by reason of facts stated in the certificate, a stay would cause imminent peril

to life and property. Upon certification, the proceedings shall not be stayed other than by a restraining order granted by the district court on notice to the village clerk with due cause shown.

(d) *Notice of hearing.* Upon receiving the notice of appeal from the planning administrator, the village clerk, in consultation with the mayor and village manager, shall place a request to schedule a public hearing on an upcoming village council meeting agenda. Once the village council has voted to schedule the public hearing, the village clerk shall cause to be published in a newspaper of general circulation in the village a notice of the time, date, place and purpose of the hearing at least ten days prior to the date of the hearing. The planning administrator shall give written notice of the date, time and place of such hearing to the applicant, the appellant, a representative of the opponents if any are known, any persons who appeared before the planning commission during its consideration of the matter, and any other parties who have requested to be so informed. Such notice shall be mailed at least 12 days prior to the date of the hearing. In addition, if the appeal relates to a specific site, a similar notice shall be mailed by the planning administrator at least 12 days prior to the date of the hearing to each owner of property situated within the required notification area of the property to which the appeal relates. The appellant shall furnish an abstractor's certified property certificate showing the property ownership within the required notification area of the property. The planning administrator shall make a copy of the notice and a list of the owners and addresses to which the notice was sent as a part of the record of proceedings. The failure to receive notice by individual property owners shall not invalidate the proceedings. If requested, the planning administrator may provide notice by fax or email, if the planning administrator has facsimile numbers or email addresses available, in lieu of mailed notice. Faxed or emailed notice shall be sent at least ten days prior to the meeting at which the case is to be heard by the village council.

(e) *Review and decision.* No sooner than 15 days from the date of public notice, the council shall hear the appeal, and render a decision within 45 days. The council shall consider oral and written testimony from the appellant, his agent or attorney, village staff members and other interested parties. All such oral testimony, other than attorneys' statements and questions, shall be in accordance with the provisions of section 54-61(f)(8), relating to testimony and evidence before the planning commission. The council shall also study the record of the action on the appeal. If postponed, the council shall make a decision on the appeal at its next regularly scheduled meeting. The council, by a two-thirds vote of all of its members, may:

- (1) Reverse any order, requirement, decision or determination of the planning commission;
- (2) Decide in favor of the appellant; or
- (3) Make any change in any order, requirement, decision or determination of the planning commission.

If the council fails to so decide by a two-thirds vote of all of its members, or if it decides by a simple majority of those members present to uphold the decision of the planning commission, then the decision of the planning commission shall stand.

- (f) *Notice of decision.* The council shall issue a written notice of its decision to all concerned parties and to the village clerk. The notice shall state the facts of the matter as determined by the council, the reasons for its decision, and any conditions applied to the decision.

REPLACED BY 54-45 (Code 1985, § 10-2-2; Ord. No. 96-01, 1-9-96; Ord. No. 98-17, § 2, 11-10-98; Ord. No. 2008-11, 10-14-08)

Sec. 54-41 PLANNING AND ZONING COMMISSION

- (a) *Established; purpose.* The planning commission is hereby established for the purpose of preparation and updating of the comprehensive plan or other specific plans through various means such as zoning, subdivision, annexation and other related techniques to promote the general welfare of the village and to secure efficiency, economy and concerted effort in its growth and development and carry out the purpose of this article as set out in [section 54-32](#), and the duties as set out in subsection (e) of this section. The planning commission may be referred to in this article as the "commission."
- (b) *Membership; appointment of members; compensation of members.* The planning commission may consist of up to seven members, but shall not have less than five members, who shall be residents of the village representing, insofar as possible, different professions or occupations. Two members may be from the three-mile planning jurisdiction. Members shall be appointed by the mayor with the approval of the majority vote of the council. Members of the planning commission shall serve without pay of any kind except actual expenses, and shall hold no other municipal or county office.
- (c) *Term of members; removal of members; vacancies.* The terms of members of the planning commission shall be two years, with staggered terms, with half of the members' terms expiring in March of even-numbered years and half of the members' terms expiring in March of odd-numbered years. All members shall hold office until their successors are appointed and qualified. Any members of the planning commission may be removed by the mayor with the consent of the majority vote of the council for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause. Vacancies occurring other than through the expiration of the term shall be filled for the unexpired term by the mayor with the approval of a majority vote of the council.
- (d) *Officers; meetings and rules of procedure.* The planning commission shall elect a chairman from the members of the commission and shall create and fill such other of its offices as it may determine. The chairman shall be eligible for reelection. The commission shall hold at least one regular meeting each month at such time and place as may be fixed by the commission. Special meetings of the commission may be fixed by the commission. Special meetings of the commission may be called by the chairman, or by any five members of the commission. A majority of four members of the commission shall constitute a quorum for the transaction of business. The commission may adopt such other rules and regulations governing its organization and procedures as it may deem

necessary so long as they are not inconsistent with this article and the laws of the state. The commission shall keep a record of its resolutions, transactions, findings, policies and determinations, and this record shall be a public record.

(e) *Duties.* It shall be the duty of the planning commission to:

- (1) Submit and recommend to the council a proposed official zoning map and recommend whatever regulations and restrictions concerning the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land it shall deem to be in the best interest of the village and its inhabitants.
- (2) Prepare and recommend to the council for adoption a comprehensive plan.
- (3) Hold a public hearing on all requests for zone changes and initial zoning and forward its recommendations to the council.
- (4) Recommend to the council any amendments to this article that may be needed concerning the plotting or use of land in any district, or restrictions upon buildings or structures therein.
- (5) Review or delegate review of site plans for multiple-dwelling, commercial and industrial developments and determine the appropriate action and requirements for each site plan of the development as set out in this article.
- (6) Make determinations and decisions regarding conditional uses as provided for in this article.
- (7) Make recommendations to the council on matters regarding the interpretation, enforcement and administration of article III of this chapter, pertaining to subdivisions.
- (8) Vary or adjust the strict application of the requirements of this article in the case of an irregular, narrow, shallow or steep lot or other physical condition applying to a lot or building as a result of which strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. Any such variance granted shall be granted according to the requirements and procedures established by this article. Variances may be granted only for hardships related to the physical characteristics of land. Variances to this article related to permitted, accessory and/or conditional uses in any district shall not be allowed. No variance or adjustment in the strict application of any provision of an ordinance may be granted unless:
 - a. Special circumstances or conditions, fully described in the commission's findings, are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of the ordinance from which this article is derived. Nonconforming lot size shall be considered a special circumstance in accordance with [section 54-80](#)
 - b. For reasons fully set forth in the commission's findings, the circumstances or conditions are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose; and
 - c. The granting of the variance is in harmony with the general purpose and intent of this

article and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- (9) Grant exceptions and variances upon request after a showing that an illegal construction or a nonconforming building or use existed for a period of at least seven years in violation of this article and the village, with knowledge of the existence of the condition, has not taken any steps toward elimination of such violation of this article.

- (10) Oversee reduction of district dimensional requirements for nonconforming lots in accordance with [section 54-80](#).

The planning commission shall be able to grant variances from those sections of this article where the granted variance would not be prohibited by federal or state law, rule or regulation. Areas specifically excluded from this clause would be sign regulations and building codes unless specifically allowed. This clause would supersede any conflicting clause in this article.

Sec. 54-42 COMMUNITY DEVELOPMENT DEPARTMENT

In addition to the jurisdiction, authority and duties which may be conferred upon the Community Development Department by other provisions of the Ruidoso municipal code and New Mexico Statutes, the Community Development Department has the following jurisdiction, responsibilities and duties under this Land Development Code:

- (a) To review, consider and interpret Land Development Code text and the official zoning map;
- (b) To review and make recommendations for the disposition of applications for permits or approvals;
- (c) To receive applications for development review and development permits for processing pursuant to the procedures of the Land Development Code;
- (d) To serve as the administrative support to the Planning and Zoning Commission;
- (e) To ensure that adequate public notice is provided for development applications pursuant to requirements of the Land Development Code;
- (f) To initiate requests to the city attorney to institute proceedings against the violators of the Land Development Code;
- (g) To undertake the Planning and Zoning Commission's long-range comprehensive planning, development plan review and zoning review responsibilities;
- (h) To review, as necessary, but at least every 5 years, the comprehensive plan and the Land Development Code and recommend amendments to the Planning and Zoning Commission and the Village Council;

Sec. 54-43 PLANNING ADMINISTRATOR

- (a) *Office of planning administrator established; staff; supervision.* The staff position of planning administrator is hereby established for the general and specific administration of this article. The duties of the planning administrator may be performed directly by the planning administrator or by such staff as may be designated by the planning administrator specifically for the administration of this article. The planning administrator shall perform all duties under the direction of the village manager or assistant village manager.
- (b) *General duties of planning administrator.* It shall be the duty of the planning administrator to:
 - (1) Receive, process, record and administer all requests for approvals and permits as governed by this article, except that building permits shall be issued by the building official after review by the planning administrator.
 - (2) Advise and recommend to the planning commission and the council regarding requests for approvals and permits as required by this article.
 - (3) Perform such inspections, observations and analyses of any and all erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within the jurisdiction of the village relating to the regulations and restrictions as set forth in this article.
- (c) *Right of entry of planning administrator.* The planning administrator or his agent is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this article and shall have the authority to enter at reasonable times upon any private or public real property for the purpose of inspecting and investigating conditions relating to the enforcement of this article.

Sec. 54-44 CITY ATTORNEY

In addition to the jurisdiction, authority and duties that are conferred upon the city attorney by other provisions of the city code, the city attorney has the following authority and duties under the Land Development Code:

- (a) To review for form all written findings of fact and resolutions drafted by the Community Development Department staff, Planning and Zoning Commission and Zoning Hearing Officer in connection with any requirement of this Section;
- (b) To review for form all development agreements, easements, declarations of covenants, letters of credit, performance guarantees or other such documentation in connection with any requirement of this Section; and
- (c) To advise the Village Council, Community Development Department staff and Planning and Zoning Commission in regard to the legal issues which may arise during implementation of the Comprehensive Plan and the Land Development Code.

Sec. 54-45 JUDICIAL RELIEF; APPEALS TO DISTRICT COURT

A final decision on the review and approval procedures of Sec. 54-XX may be appealed to District Court, pursuant to Section 3-21-9 NMSA 1978, provided that all local appeals and remedies have been exhausted. Matters that could be resolved via a variance or appeal of an administrative decision may be

submitted to District Court only upon completion of the local appeal procedures specified in this Land Development Code.

DIVISION 3: DEFINITIONS

Sec. 54-46 DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Except as specifically defined in this article, all words used in this article shall have their customary dictionary definitions.

General definitions and rules of construction. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular. The word "shall" is always mandatory. The word "person" includes a firm, association, organization, partnership, trust, corporation or company, as well as an individual. The word "lot" includes the words "plot" and "parcel." The word "building" includes the word "structure." The words "used" and "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied." The words "map" and "zoning map" mean the official zoning map of the village that delineates the area to be governed by this article.

Accessory building or use means a subordinate building, or portion of the principal building, located on the same lot as the principal building, or a subordinate use of land, either of which is customarily incidental to the principal building or to the principal use of land. Where part of an accessory building is connected to part of the principal building in a substantial manner, as by a roof, such accessory building shall be counted as part of the principal building.

Adult use, retail and/or entertainment means an establishment where at least twenty-five (25) percent or more of the gross area is devoted to retail, distribution, depiction, or entertainment distinguished by an emphasis on the description, exposure, or representation of sexually-oriented material, specified anatomical areas, and/or specified sexual activities. **Agricultural/ranching** means the cultivation of the soil or the raising of livestock and all activities incidental thereto. The terms "farming" and "ranching" shall be interchangeable for purposes of this article.

Alcohol/ Liquor Related Definitions

Bar or nightclub means an establishment with which derives at least one-half of the total sales from beer or liquor consumed on the premises. This use may include music and entertainment.

Brewery means a business which involves manufacturing beer (see **Manufacturing**).

Small liquor producer means the production of beer, wine, or spirits associated with an approved Small Brewer's License as governed by Section 60-6A-26.1 NMSA 1978, an approved Winegrower's License as governed by Section 60-6A-11 NMSA 1978, or an approved Craft Distiller's License as governed by Section 60-6A-6.1 NMSA 1978. Annual production shall be limited by State statute. This use does not include alcohol sales. Alcohol sales associated with brewing on-site is regulated pursuant to the tap room or tasting room use.

Distillery means a business for the manufacture of spirituous liquors (see **Manufacturing**).

Winery means a licensed premise in which a winegrower manufactures and stores wine or cider

(see **Manufacturing** definition).

Tap room/tasting room means an establishment associated with a local brewery, winery, or distillery. Establishments must have an approved “small brewer’s license” as governed by 60-7A-26.1 (stet) NMSA 1978, an approved “winegrower’s license” as governed by 60-6A-11 NMSA 1978, or an approved “craft distiller’s license” as governed by 60-6A-6.1 NMSA 1978. Annual production shall be limited by state statute. Sale of materials produced on-site for off-premises consumption is allowed.

Alley (see transportation related definitions)

Apartment building See **Dwelling Multifamily**

Area of shallow flooding (see flood related definitions)

Automotive/ Vehicle Related Definitions:

Auto wrecker service means a lot or yard where three or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, sale of parts, or sale as scrap.

Automobile includes all light vehicles, such as passenger cars and light trucks.

Automobile fuel station means an establishment with the primary business function of the retail sale of gasoline for passenger car use and convenience retail sales along with minor service and repair work incidental to the operation of passenger automobiles.

Automobile washing establishment means a building which has as its primary purpose washing automobiles. Such facilities shall be considered incidental to automobile fuel stations if no more than one auto may be washed at one time and if the fuel station is clearly the principal use.

Heavy vehicle and equipment sales, rental, fueling, and repair means a facility that is engaged in the sales, fueling, rental, and/or repair of heavy vehicles and equipment typically used in agricultural, transit, commercial, or industrial operations. Sales of parts, whether new or used, for heavy vehicles and equipment, and incidental storage of heavy vehicles related to sales, rental, fueling, repair, service, and maintenance are included in this use.

Automobile repair means any facility providing vehicle repair, service, or maintenance of passenger cars.

Sales lot for automobiles, boats or recreational vehicles means a lot or area used for commercial display and sales only of three or more automobiles, boats or recreational vehicles or any combination thereof, with or without a sales office on-site and without service facilities.

Banner (see **Sign** related definitions)

Basal area (see **Forest Management** related definitions)

Basement means a portion of a building located partly underground but having not less than half its floor-to-ceiling height below the average grade of the adjoining ground.

Block frontage means all of the property of a given lot or any portion thereof lying adjacent to a public street or highway.

Boardinghouse means an establishment in a private dwelling in which more than one guestroom is used to provide or offer overnight accommodations and meals for transient guests.

Building Related Definitions:

Building means any structure having enclosed space and a roof for the housing and/or enclosure of persons, animals or property, except mobile homes and mobile offices.

Building area means the maximum horizontal projected area of the principal and accessory buildings, excluding open steps, terraces, unenclosed porches of one story, and architectural appurtenances projecting not more than two feet. Building area, as that portion of a lot upon which construction is permitted, is as follows: that area of a lot that lies within the boundaries of the front, side and rear yard setback requirements measured from the actual lot line.

Building, attached means a building having one or more party walls in common with another building when the principal use of each building is independent of the other and when no interior access exists from one building to another.

Building, detached means a building having no party wall in common or structural connection with another building.

Building envelope means that area of a lot lying between the front, rear, and side yard setback lines and between ground level and the maximum allowable building height.

Building, front line of means the line of the face of a building nearest the front line.

Building, height of means the vertical distance from the average contact ground level of the front and rear walls of the building to the highest point of the coping of a flat roof, or to the deck of a mansard roof, or to the mean height level between eaves and ridges for gable and hip or gambrel roofs.

Building line, front means the line nearest to the front across a lot establishing the minimum open space to be provided between the front line of a building and the front lot line.

Building line, rear means the line nearest to the rear across a lot establishing the minimum open space to be provided between the rear line of a building and the rear lot line.

Building, nonconforming means a legally existing building which fails to comply with the regulations set forth in this article applicable to the zone in which the building is located.

Building, principal means a building in which is conducted the main or principal use of the lot on which the building is situated.

Building, public means a building, supported by government funds, to be used in an official capacity on the behalf of the entire community.

Business means the engaging in or the purchase, sale, barter or exchange of goods, wares, merchandise or service; or the maintenance or operation of offices or recreational or amusement enterprises.

Campground means any area of land used to temporarily accommodate two or more camping parties, including cabins, tents, house trailers or other camping outfits.

Cannabis Related Definitions:

Cannabis means all parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight manufacture, salt, derivative, mixture or preparation of the plant. its seeds or its resin; and does not include:

- (a) the mature stalks of the plant; basis. whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound. manufacture, salt. derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; and Mature plant means a flowering or nonflowering cannabis plant that has taken root and is taller than 8 inches.
- (b) the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product.

Cannabis consumption area means an area where cannabis products may be served and consumed.

Cannabis manufacturer means a person that: (1) manufactures cannabis products; (2) packages cannabis products; (3) has cannabis products tested by a cannabis testing laboratory; or (4) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments.

Cannabis producer microbusiness means a cannabis producer at a single licensed premises that possesses no more than two hundred total mature cannabis plants at any one time.

Cannabis producer means a person that: (1) cultivates cannabis plants; (2) has unprocessed cannabis products tested by a cannabis testing laboratory; (3) transports unprocessed cannabis products only to other cannabis establishments; or (4) sells cannabis products wholesale.

Cannabis research laboratory means a facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

Cannabis retailer means a person that sells cannabis products to qualified patients, primary caregivers, reciprocal participants, or directly to consumers.

Cannabis testing laboratory means a person that samples, collects, and tests cannabis products and transports cannabis products for the purpose of testing.

Vertically integrated cannabis establishment means a person that is authorized to act as any of the

following: (1) a cannabis courier; (2) a cannabis manufacturer; (3) a cannabis producer; and (4) a cannabis retailer.

Cannabis Courier means a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

Integrated Cannabis Microbusiness Means a person that is authorized to conduct one or more of the following:

- (1) production of cannabis at a single licensed premises, provided that the person shall not possess more than two hundred total mature cannabis plants at any one time;
- (2) manufacture of cannabis products at a single licensed premises;
- (3) sales and transportation of only cannabis products produced or manufactured by that person;
- (4) operation of only one retail establishment; and
- (5) couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

Commercial cannabis activity means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis.

On-site Cannabis Consumption Premises means on-site consumption of cannabis includes the smoking, vaporizing, and ingesting of cannabis or cannabis products on a licensed premise.

Standalone Building means a building whose heating, air conditioning and ventilation system services only that building.

Carport means a structure consisting of a roof and either walls or columns and is open to the exterior at two full length walls minimum for the purpose of housing automotive vehicles and other chattels. The structure shall be considered as an accessory building when detached from the principal building or as a part of the principal building when attached to the principal building along one or more sides of the carport or principal building.

Carport, temporary or portable means those which are designed to be portable, are prefabricated off-site for assembly and/or installation on-site, having exterior finish of fabric, fiberglass, plastic, thin metal or like materials, whether or not carport is set on permanent foundation.

Cemetery means land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Child and Adult Daycare Definitions

Adult or Child Day Care Facility means a facility other than an occupied residence that provides care for more than 12 individual adults or children during the day. [This use includes pre-schools]. This use does not include overnight care. See also see Group Home.

Childcare center means a facility required to be licensed by the State of New Mexico that provides care, services, and supervision for less than 24-hours a day to children. A child care center is in a non-residential setting and meets applicable state and local building and safety codes

Family childcare home means a private dwelling required to be licensed by the State of New Mexico that provides care, services, and supervision for a period of less than 24 hours of any day for no more than six children. The licensee will reside in the home and be the primary educator.

Group childcare home means a home required to be licensed by the State of New Mexico, which provides care, services, and supervision for at least seven but not more than 12 children. The licensee will reside in the home and be the primary educator.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Clinic and medical center mean an establishment where patients are admitted for special study and treatment by one or more licensed physicians and/or dentists and their professional associates, as distinguished from a professional office for general consultation purposes.

Club, private (nonprofit) means a nonprofit association of persons who are bona fide members paying annual dues which owns, hires, or leases a building or a portion thereof, the use of such premises being restricted to members and their guests.

Code enforcement officer means village staff designated by the village manager to enforce provisions of the ordinances of the village.

Conditional use permit means legal authorization to undertake a conditional use as defined by this article.

Convenience food restaurant means an establishment whose principal business is the sale of foods, frozen desserts, or beverages to the consumer in a ready-to-eat state for consumption either within the premises or for carryout with consumption either on or off the premises and whose design or principal method of operation includes both of the following characteristics:

- A. Foods, frozen desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers.
- B. The customer is not served food at his table by an employee but receives it at a counter, window, or similar facility for carrying to another location for consumption either on or off the premises.

Corporation counsel means the village attorney or any assistant or special counsel of the village.

Density, gross residential means the number of dwelling units per unit of land calculated with no exclusion.

Density, net residential means the number of dwelling units per unit of land, excluding streets and

publicly owned property.

Development means any manmade change to improve or alter real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or cutting of trees whose circumference is greater than 60 inches.

Drive-in business means any business in which a customer is served in a motor vehicle and remains on site. Such businesses include but are not limited to the following: drive-in movie theater and drive-in restaurant. This does not include businesses with drive up or drive through service windows. See Drive up or drive through window)

Drive up or drive through service window means a customer service facility located within the principal structure as an accessory to an office or retail establishment which is intended to enable a customer to transact business with an employee located within the principal structure without exiting the motor vehicle. Typical businesses that have drive up or drive through service windows include restaurants, pharmacies, and financial institutions,

Dwellings/ Dwelling Related Definitions:

Apartment building See Dwelling, Multifamily.

Caretaker quarters means a dwelling unit that is complimentary to a non-residential principal use and needed for security or 24-hour supervision.

Condominium means a building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. Condominiums may be residential, commercial, or industrial in nature.

Condominium hotel (timeshare condominium) means a condominium set up like a hotel in which each room is individually owned and in which some or all rooms are available to transients for rent.

Dwelling, Accessory means a building, or portion thereof, used for residential occupancy, including single-family, two-family and multiple-family dwellings, and dwelling rentals, but not including hotels, motels or tourist homes.

Dwelling, multifamily means a building, or portion thereof, used for occupancy by three or more families living independently of each other.

Dwelling, rental means dwelling units that may be rented on a nightly, weekly, monthly, or long-term basis, provided there is no onsite advertisement; density may not exceed district regulations.

Dwelling, single-family means a building used for residential occupancy by one family.

Dwelling, two-family means a building, or portion thereof, used for occupancy by two families living independently of each other, also referred to as a "duplex."

Dwelling unit means a dwelling, or portion of a dwelling, used by one family and containing a bathroom, kitchen, and sleeping spaces.

Live/ work unit means a single unit consisting of both a commercial/ office space and a residential dwelling component that is operated by the resident. The live/ work unit shall be the primary dwelling of the occupant.

Townhouse means a single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent buildings by party walls or are located immediately adjacent thereto with no visible separation between walls or roof, all of which dwellings may be located on individual and separate lots if individually owned, or upon a single lot if under common ownership.

Townhouse cluster means a building consisting of three or more noncommunicating, attached one-family units, placed side by side and having a common wall between each two adjacent dwelling units.

Electrical Vehicle Charging Stations and Equipment Related Definitions:

Electric vehicle (EV) charging station means a public or private parking space that is served by battery charging station equipment for the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle.

Level designations are the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms Level 1, 2, and 3 are the most common EV charging levels, and include the following specifications:

Level 1 is considered slow charging and operates on a 15 to 20 amp breaker on a 120 volt AC circuit.

Level 2 is considered medium charging and operates on a 40 to 100 amp breaker on a 208 or 240 volt AC circuit.

Level 3 is considered "fast" or "rapid" charging and typically operates on a 60 amp or higher breaker on a 480 volt or higher three phase circuit with special grounding equipment. Level 3 stations are primarily for commercial and public applications and are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

Family means one or more persons related by blood, marriage or adoption, or not more than three unrelated persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, motel, club, fraternity, sorority or lodging house.

Farm means an area which is used for growing, raising, producing and storage of agricultural products on a commercial basis, such as timber, livestock, poultry, and foodstuffs, including the residence of those conducting and engaged in the operation. A farm shall not include commercial feedlots or sanitary landfills.

Fence means a barrier constructed of materials erected for the purpose of protection, confinement, enclosure or privacy.

Flood Related Definitions:

100-year flood means the highest level of flooding that, on the average, is likely to occur once every

100 years (i.e., that has a one percent chance of occurring each year).

Area of shallow flooding means a designated AO zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Flood insurance rate map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and risk premium zones applicable to the community.

Flood insurance study means the official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.

Floodplain, 100-year means that area encompassing the floodway area and the floodway fringe.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage or potential flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

Floodway, 100-year means the channel of a river or other watercourse and the adjacent land areas which must be kept free of encroachment in order to carry and discharge a flood of 100-year magnitude without substantial increases in flood height.

Floodway encroachment lines means the lines marking the limits of floodways on the zoning map.

Floodway fringe, 100-year means the area between the floodway and the 100-year flood boundary.

Forest Management Related Definitions:

Advanced infestation means any insect, pest, fungal growth, parasite or other infestation which threatens the life of a tree according to United States Forest Service standards.

Basal area means the cross-sectional area in square feet of each tree in a stand of timber as measured at breast height (4.5 feet). The equation for basal area per tree is: $\text{Basal Area} = 0.005454 \times \text{DBH} \times \text{DBH}$

Defensible space means an area, either natural or manmade, where materials capable of allowing a fire to spread unchecked have been treated, cleared, or modified to slow the rate and intensity of advancing wildfire and create an area for fire suppression operations to occur.

Diseased tree means a tree that shows signs of severe damage, structural unsoundness or advanced infestation.

Forest/urban interface means an area where development and forested area meet at a well-

defined boundary.

Forest/urban intermix means an area where development and forested area meet with no well-defined boundary.

Fuel break means, generally, a wide strip of land on which native vegetation has been permanently modified so that fires burning into it can be more readily controlled. Some fuel breaks contain narrow fire breaks, which may be roads or narrow hand-constructed lines. During fires these line breaks can quickly be widened either with hand tools or firing out.

Fuel modification means a method of modifying fuel load by reducing the amount of non-fire-resistive vegetation to reduce the fuel loads.

Healthy tree means a tree that shows no signs of severe damage, structural unsoundness or advanced infestation.

Ladder fuels means fuels which provide vertical continuity between strata. Fire is able to carry from surface fuels into the crown of trees or shrubs with relative ease and ensure initiation and continuity of crowning.

Mature tree means a tree measuring ten inches or more in diameter at 4.5 feet above ground level.

Slash means the debris created from cutting trees and forest growth.

Tree manipulation activity means cutting or thinning of mature trees.

Tree protective zone means the portion of any lot or parcel covered by the front, rear and side yard requirements of this article.

Tree removal means any act which causes a tree to die within a period of two years, including but not limited to damage inflicted upon the root system by machinery, storage of materials and soil compaction; changing the natural grade above the root system or around the trunk; damage inflicted on the tree permitting infection or pest infestation; excessive pruning; or paving with concrete, asphalt or other impervious material within such proximity as to be harmful to the tree.

Forest/urban interface means an area where development and forested area meet at a well-defined boundary.

Forest/urban intermix means an area where development and forested area meet with no well-defined boundary.

Fuel break means, generally, a wide strip of land on which native vegetation has been permanently modified so that fires burning into it can be more readily controlled. Some fuel breaks contain narrow fire breaks, which may be roads or narrow hand-constructed lines. During fires these line breaks can quickly be widened either with hand tools or firing out.

Fuel modification means a method of modifying fuel load by reducing the amount of non-fire-resistive vegetation to reduce the fuel loads.

Garage, private means a detached accessory building, or portion of a main building, used for the storage of self-propelled vehicles, where the capacity does not exceed three vehicles per family housed in the building to which such garage is accessory. Not more than one-third of the total number of vehicles stored in such garage shall be commercial vehicles.

Garage, public means any building or premises, except a private garage, used for the storage or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

Grocery Store means an establishment that sells a wide variety of goods organized in departments, including but not limited to fresh produce, meat and dairy, canned and packaged food items, small household goods, and similar items, with more than 50 percent of the gross floor area devoted to the sale of food products for home preparation and consumption.

Ground floor area means the square foot area of a building within its largest outside dimension computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages, exterior stairways, and secondary stairways.

Group home means a single residential structure having common kitchen facilities occupied by persons having physical, mental, emotional, or social problems and living together for the purpose of training, observation and/or common support.

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof.

Healthy tree means a tree that shows no signs of severe damage, structural unsoundness, or advanced infestation.

Home occupation or profession means any use conducted entirely within a dwelling and carried on solely by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and which meets the requirements of this article.

Hospital includes a sanitarium, preventorium or clinic, provided such institution is operated by or treatment is given under the direct supervision of a physician licensed to practice by the state.

Hotel and motel mean a building or portion thereof, or a group of buildings, in which lodging is provided and offered to transient guests for compensation; this shall not include a lodging house. Cabin rentals are included in this land use type.

Industry, heavy means those industries whose processing of products results in the emission of any atmospheric pollutant, light flashes, or glare, odor, noise or vibration which may be heard and/or felt off the premises, and those industries which constitute a fire or explosion hazard.

Industry, light means those industries whose processing of products results in none of the conditions described for heavy industry.

Junkyard means any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted,

including but not limited to use of salvaged base metals or their compounds or combinations; and used or salvaged rope, bags, rags, glass, rubber, lumber, millwork, brick, automobiles and similar property which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

Kenel means any lot or premises on which are kept ten or more dogs, cats or small animals over eight weeks of age, for any purpose, or on which there is commercial boarding or breeding of dogs or cats. The term does not include premises for the boarding of animals by a nonprofit organization which is dedicated to permit the humane care and treatment of animals.

Loading and unloading berth means the off-street area required for the receipt of or distribution by vehicles of material or merchandise.

Lodging house means a building with more than two but not more than ten guestrooms where lodging with or without meals is provided for compensation.

Lot Related Definitions:

Lot means a piece, parcel, plot, tract or area of land occupied or capable of being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required under this article, and having its principal lot frontage on a street.

Lot, corner means a lot at a junction of and fronting on two or more intersecting streets.

Lot coverage means the percentage of the lot area covered by buildings.

Lot depth means the horizontal distance of a line measured at a right angle to the front lot line and running between the front lot line and rear lot line of a lot.

Lot, interior means a lot other than a corner or through lot.

Lot line, front, in the case of an interior lot, means a line separating the lot from the street, and in the case of a corner lot means a line separating the narrowest street frontage of the lot from the street, except that, where the lot is square or nearly so, the owner may choose which of the two street frontages is to be considered the front lot line.

Lot line, rear means a lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot line, side means any lot boundary line not a front lot line or a rear lot line.

Lot, through means a lot having frontage on two parallel or approximately parallel streets.

Lot width means the distance, measured in a straight line, between side lot lines at the points of intersection with the setback line.

Manufacturing Definitions:

Manufacturing means the creation of products either with machinery or by hand according to an organized plan and with the division of labor.

Artisan manufacturing means small-scale manufacturing and related processes or activities — often by an artist, artisan, or craftsperson working with materials either by hand or with minimal automation or technology. This use includes incidental storage, wholesaling of products manufactured at the facility, and direct sales to consumers. Small breweries, wineries, and distilleries meeting state regulations are considered to be artisan manufacturing.

Light manufacturing means assembly, fabrication, or processing of goods and materials, primarily conducted within an enclosed building, which is designed, built and maintained to prevent smoke, noise, glare, dust, odors or other development impacts from being detected beyond the boundaries of the property. Assembly, fabrication, or processing may include compounding, processing, assembling, packaging, or testing of goods.

Heavy manufacturing means mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors. This use creates greater than average impacts on the environment or has significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, but does not include special manufacturing (see special manufacturing).

Special manufacturing means processes that input or create hazardous by-products, as defined by federal regulation, during manufacturing, assembly, fabrication, or materials treatment, or that use manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts, including but not limited to explosions or leakage of nuclear or electromagnetic radiation into the environment or surrounding areas.

Minimum means not less than the requirement indicated, but may be greater, if necessary, to meet the development standards of this article.

Mining means the extraction of sand, gravel, or other material from the land in the amount of 400 cubic yards or more, and the removal from the site with or without processing.

Mobile/ Manufactured Home Definitions:

Manufactured home means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer has received certification from the United States Department of Housing and Urban Development and complies with the standards of the Manufactured Home Construction and Safety Standards Act; and except that such term shall not include any self-propelled recreational vehicle (42 USC 5402).

Mobile home means a movable or portable housing structure larger than forty feet in body length, eight feet in width or eleven feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes that is not constructed to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code, as amended to the date of the unit’s construction or built to the standards of any municipal building code (NM Statutes 3-21A1-8).

Mobile home park means any plot of ground upon which two or more mobile homes, occupied, or intended to be occupied for dwelling or sleeping purposes, are located.

Mobile home space means a plot of ground within a mobile home park designed for the accommodation of one mobile home.

Mobile home stand means that portion of an individual mobile home space which has been reserved for the placement of a mobile home and structures or additions appurtenant to the mobile home.

Mobile home subdivision means a subdivision designed for the express purpose of placing mobile homes on the individual lots.

Modular home means a structure, built in a manufactured or mobile home building facility, transported in sections to the home site and joined together. Modular homes are built to conform to all applicable standards of state, local, and/or regional building code.

Multi-section manufactured home means a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six by twenty-four feet at least eight hundred sixty-four square feet and constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 of the Uniform Building Code, as amended to the date of the unit’s construction, and installed on a permanent foundation consistent with the Manufactured Housing Act (NM Statutes 3-21A1-8).

Mobile office means a factory-assembled structure exceeding eight feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit on its own running gear and designed to be used as an office without a permanent foundation, whether or not the running gear has been removed.

Mobile Vending Related Definitions:

Mobile food truck means any wagon, truck, trailer, or other vehicle that is propelled by an engine or motor vehicle and from which any person sells, offers for sale, or gives away food or beverages.

Mobile food cart means a vehicle without motive power that has functional wheels and at least one axel and is used for the sale of food or beverages.

Mobile food vending pod means more than three mobile food vending units congregated at an established location for the sale of food and beverages.

Mobile vending truck means any wagon, truck, trailer, or other vehicle that is propelled by an engine or motor vehicle and from which any person sells, offers for sale, or gives away prepackaged food or beverages, food or beverage items that do not require temperature regulation, or other non-food items.

Mobile vending cart means a vehicle without motive power that has functional wheels and at least one axle and is used for the sale of goods, including packaged food or beverages, food or beverages that do not require temperature regulation, raw produce, flowers, arts, and crafts.

Neighborhood park means publicly or privately owned land that is maintained for active or passive recreational use and for the use and enjoyment of the general public or the residents or occupants of a the surrounding neighborhood. This use includes areas consisting of vegetative landscaping and/or areas improved for outdoor sports and recreation. Structural improvements are generally limited to those that facilitate the use of the land as a park. Incidental activities and structures include, but are not limited to, playgrounds, maintenance facilities, swimming pools, restrooms and dressing rooms, concessions, caretaker’s quarters, and parking.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance from which this article is derived.

Noxious matter or material means material capable of causing injury to living organisms by chemical reaction or capable of causing detrimental effects on the physical or economic well-being of individuals.

Offices means structures, or portions of structures, in which commercial activities take place but where goods are not produced, sold or repaired. These include banks, general and professional offices, governmental offices, insurance offices, real estate offices, taxicab offices (but not taxi stands), travel agency or transportation ticket offices, telephone exchanges, utility offices, radio broadcasting, coworking spaces, and similar uses.

Open sales (or rental) lot means any land used or occupied for the purpose of buying, selling or renting, for use away from the premises, any goods, materials or merchandise, and for the exterior storing of such goods, materials or merchandise prior to sale or rental.

Overlay zone means a zone superimposed upon an underlying zone, which establishes special requirements in addition to those of the underlying zone. Development or use of land or structures must conform to the requirements of both zones or the more restrictive of the two, if in conflict.

Parking area, public means an open area, other than a street or alley, designated for use or used as temporary parking for four or more vehicles, when available for public use, whether free or for compensation or as an accommodation for clients or customers.

Parking space, off-street means a space designated for the temporary parking of a motor vehicle not on the right-of-way or alley but accessible from a street or alley.

Party wall means any wall of a building or structure which is common to two or more buildings.

Paved parking space or surface means an area covered by an impervious dust free surface of asphalt or concrete designed to specifications of the village engineer.

Person includes any individual or group of individuals, corporations, partnerships, associations or any other organized group of persons, including state and local governments and agencies thereof.

Personal and convenience services means businesses offering services, such as barbershops, beauty shops, laundromats, laundry and dry cleaning pickup and delivery stations (but excluding actual laundry operations), and similar uses.

Planning administrator means village staff designated by the village manager or assistant village manager to be responsible for the administration of this article.

Plant nursery means a primary use of land for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted in or outside an enclosed structure or greenhouse. Outdoor sales of plants are allowed. Plant nursery does not include growing, display or sale of cannabis plants.

Property, personal means property other than real property, consisting of things temporary and movable.

Property, real means property in buildings and land.

Public hearing means a meeting announced and advertised in advance and open to the public where the public has the right, within prescribed rules, to participate and be heard.

Public meeting means a meeting open to the public where the public has the right to attend and listen to the proceedings. Participation by the public shall be at the discretion of the public body.

Ranch means an area utilized for the primary purpose of raising and producing livestock, including the residence of those conducting and engaged in the operation.

Recreational vehicle (RV) means the following:

- A. Travel trailers, camping trailers, fifth-wheel trailers and all other vehicles that are constructed to include a chassis, integral wheels and a towing hitch, and are primarily designed or constructed to provide temporary, readily moveable living quarters for recreation, camping or travel uses. For purposes of this subsection, readily movable shall mean movable within 24 hours.
- B. Pickup campers, either mounted or nonmounted, or any structure designed to be mounted in the bed of a truck and providing living quarters for recreation, camping or travel uses.
- C. Chassis mount, motor home, mini-motor home or other recreational structures or vehicles constructed integrally with a truck or motor van chassis and incapable of being separated therefrom and designed to be used for moveable living quarters for recreational, camping or travel uses.
- D. Recreational vans or converted and chopped vans or other vehicles which are either initially constructed or converted to contain living quarters for recreational, camping or travel uses.

Recreational vehicle park (RVP) means a tract of land at least two acres in size, on which individual recreational vehicles are parked temporarily in rental spaces for periods not exceeding 150 days during any 12-month period. Recreational vehicles may not be stored in recreational vehicle parks.

Restaurant means any restaurant (except a drive-in restaurant or a convenience food restaurant), coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, drugstore or soda fountain serving food, and all other eating or drinking establishments provided that at least one-half of the total sales are derived from the sale of food.

Retail

General retail means an establishment providing for the retail sale of general merchandise or food to the general public for direct use and not for wholesale; including but not limited to sale of general merchandise, clothing and other apparel, flowers and household plants that are not grown on-site, dry goods, convenience and specialty foods, hardware and similar consumer goods, cannabis for medical consumption, or other retail sales not listed as a separate use.

Shopping center means any grouping of four or more principal retail uses, whether on a single lot or on abutting lots, under multiple or single ownership, and whether contained in one building or multiple buildings.

School means any pre-primary, primary or grammar, public, parochial or private school, high school, preparatory school or academy, public or founded, owned or conducted by or under the sponsorship of a religious or charitable organization; any private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; any junior college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization; or any private school when not conducted as a commercial enterprise for the profit of individual owners or stockholders.

Screening means a solid or nearly solid barrier (i.e., wall, fence or plantings) constructed or installed for the purpose of visual separation.

Setback means the minimum horizontal distance between a building and the street or lot line.

Short-Term Rental means one or more dwelling units, including either a single-family detached or multi-family attached unit, rented for the purpose of overnight lodging for a period of not less than one night nor more than 29 consecutive days to the same person or persons.

Sign Related Definitions:

Banner means a sign of temporary construction of lightweight, flexible materials such as cloth, canvas, plastic or paper on which letters, numbers, symbols or pictures are printed or painted, with or without a frame.

Sign means any board, device or structure or part thereof used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purposes of showing street names or traffic directions or regulations for other governmental purposes shall not be included in this definition.

Sign, billboard means any non-accessory sign, whether freestanding, wall-mounted or roof-mounted.

Sign, non-accessory means a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Sign, wall means a sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign, and which does not project more than 18 inches from such building or structure.

Site Plan Related Definitions:

Concept plan means a sketch approximately to scale that shows the intended layout of a proposed development.

Site plan means a drawing to a scale not less than one-inch equals 100 feet showing the accurate location of all structures, streets, alleys and parking areas existing and proposed on subject property, or any other information as may be required by this article.

Construction documents means an accurate set of drawings and specifications prepared by a licensed professional architect or engineer that meet the required detail for a building permit.

Concept plan approval means an approval of a proposed development by a property owner prior to the preparation of a final site plan. The purpose of this approval is to provide relief for the property owner or developer from the expense of the required professionally prepared documents prior to reaching general agreement with the planning commission and the affected property owners of the proposed development.

Special exceptions mean any exceptions made to this article. Special exceptions to this article shall be limited to variances, conditional uses, and expansion of nonconforming uses, and shall not be granted except as prescribed in this article.

Spot zoning means rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.

Stable, private means any building located on a lot which is designed, arranged, used or intended to be used for not more than four horses for the private use of the owner of the lot, but shall not exceed 6,000 square feet in area.

Stable, public means a stable where horses are kept for remuneration, hire or sale.

Start of construction means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the state of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home

park or mobile home subdivision, the start of construction is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Streets/ Transportation Related Definitions:

Alley means a permanent public thoroughfare providing a secondary means of access to abutting lands.

Street means a right-of-way, other than an alley, dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property.

Street, arterial means a major street of exceptional continuity that is intended to carry the greater portion of through traffic from one area of the village to another.

Street, collector means a street designed to accommodate traffic within residential neighborhoods with the primary purpose of collecting and distributing traffic to and from the arterial streets.

Street frontage means any property line separating a lot from a street.

Street, public means any street which has been dedicated or is otherwise publicly owned by the village.

Strip development means commercial or retail development, usually one store deep, that fronts on a major street.

Structural alteration means any change in the supporting members of a building such as bearing walls or partitions, columns, beams or girders, or any change in the exterior walls or the roof.

Structure means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions; or
- B. Any alteration of a structure listed on the National Register of Historic Places.

Ten-foot zone means the area within ten feet of a structure, as measured from a line drawn perpendicular from the roofline of the structure to the ground.

Tobacco Products

Tobacco manufacturing means the process of making, producing, creating, fabricating, assembling, combining, or mixing tobacco products licensed under the New Mexico Tobacco Products Act (15.8.2 NMAC).

Tobacco retail means the retail sales of tobacco products licensed under the New Mexico Tobacco Products Act (15.8.2 NMAC).

Tourist home means an establishment in a private dwelling that supplies a building in which more than one but not more than five guestrooms are used to provide or offer overnight accommodations for transient guests for compensation.

Unobstructed utility easement means that no utility easement shall have trees or shrubbery growing into, around, or over, or have branches that with a snow or ice load threaten, any above ground utility line.

Use means the employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

Use, conditional means either a public or private use as listed in this article which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district. After consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, a permit for such conditional use may or may not be granted pursuant to the requirements of this article. A conditional use may be a principal use or an accessory use.

Use, nonconforming means an existing use of land or buildings which was legal prior to the effective date of the ordinance from which this article is derived but which fails to comply with the requirements set forth in this article applicable to the zone in which such use is located.

Use, permitted means a use which is lawfully established in a particular district and which conforms with all requirements, regulations and performance standards of such district. A permitted use may be a principal use or an accessory use.

Use, principal means a use or structure which determines the predominant or major use of the lot on which it is located. A principal use may be either a permitted or a conditional use.

Utility Related Definitions:

Utilities, major means a facility regulated as a public utility or common carrier by the state or other relevant jurisdiction or agency, including but not limited to major telephone facilities, electric facilities, natural gas facilities, water treatment plants, water pump stations, sewage treatment plants, stormwater drainage facilities, irrigation facilities, or similar public services. Major facilities are those sized or designed to serve the entire village, or a wide area of the village.

Utilities, minor means a facility regulated as a public utility or common carrier by the state or other relevant jurisdiction or agency. Minor utility facilities provide services that are necessary to support

development within the immediate vicinity and involving only minor structures. These include transformers, relay and booster devices and well, water, and sewer pump stations.

Variance means a modification or variation of the provisions of this article as applied to a specific piece of property. Dimensional variances only may be allowed, and only as prescribed by section 54-61(e)(8). No variance regarding use of property shall be permitted. No variances decreasing lot area requirements shall be allowed.

Variance, dimensional means departure from the terms of this article pertaining to height or width of structures and size of yards and open spaces where such departure will not be contrary to the public interest and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the action of the applicant, the literal enforcement of this article would result in unnecessary and undue hardship.

Warehouse means an enclosed building designed and used primarily for the storage of goods and materials.

Warehouse, residential storage and mini warehouse mean a building or group of buildings in a controlled-access and fenced or screened compound that contains relatively small storage spaces of varying sizes, having individual, compartmentalized and controlled access for the storage of excess personal property of an individual or family generally stored in residential accessory structures, when such building or group of buildings is not located on the lot of the residence.

Yard means a space on the same lot with a principal building, which is open and unoccupied other than by steps, walks, terraces, driveways, lampposts and similar structures, and unobstructed by structures, except as otherwise provided in this article.

Yard, corner side means a yard on a corner lot, the area of which is bounded by a line extending from the front of the principal building (the front building line) to a point intersecting the side street right-of-way line (side lot line), then along the side lot line to a point intersecting the line formed by extending the wall of the nearest principal building paralleling the side lot line.

Yard, front means a yard extending across the full width of the lot between two side lot lines, the depth of which is the least distance between the street right-of-way and the building line.

Yard, rear means a yard extending across the full width of the lot between the two side lot lines and between the rear line and a parallel line tangent to the rear of the principal building, the depth of which is the least distance between the rear lot line and the parallel line.

Yard, side means a yard extending between the front building line and the rear building line, the width of which is the least distance between the side lot line and the nearest part of the principal building.

Zoning authority means the Village Council.

DIVISION 4: ZONING DISTRICTS

Sec. 54-47 GENERAL DISTRICTS DEFINED; PERMITTED AND CONDITIONAL USES

- (a) General districts are the residential, commercial, and industrial zoning districts of the village. This division outlines the intended purpose of each general district and states the permitted uses and conditional uses for each district.
- (b) A permitted use is a use which is listed as permitted by right in a zoning district. Nonspecified uses which are similar to those specified are also permitted by right, except as otherwise restricted within this article.
- (c) A conditional use is a use which is of an unusual or unique character, and which may be offensive or incompatible in some cases within a zoning district. A conditional use requires review and approval by the planning commission to determine impacts of the use on the surrounding area. See [Section 54-61](#) for procedures governing a conditional use permit.

(Code 1985, § 10-4-1)

Sec. 54-48 ORGANIZATION OF ZONE REGULATIONS

- (a) Districts may be base zones or overlay zones. Base zones set out the use, intensity, and dimensional standards for properties within their boundaries. Base districts are grouped into three (3) types – Residential, Non-Residential, Special Use districts– and shall have the boundaries shown on the Official Zoning Map. Overlay zones are superimposed over portions of one or more underlying base zones with the intent of supplementing general development regulations with additional regulations that address special area-specific conditions or features while maintaining the character and purposes of the underlying base zones. Overlay zones include standards that may modify or supersede standards applied by the underlying base zone, though the uses allowed or prohibited in overlay zones are generally the same as the underlying base zone.

- (b) The regulations for each type of zone are organized as described below.

- (1) The purpose of each district
- (2) District Standards that are specific to each district
- (3) Reference to other applicable standards included in Chapter 54

Allowable uses in each district are in the Use Table, [Section 54-54](#). Some uses must meet specific standards. Specific Use standards are listed in [Section 54-55](#), and a link to applicable standards is provided in the Use Table.

Sec. 54-49 RESIDENTIAL DISTRICTS

(a) R-1 Single-Family Residential District

- (1) *Purpose; maximum density.* The purpose of the R-1 single-family residential district is to provide for the development, at a low density, of single-family detached dwellings and directly related complementary uses. The district is intended to be strictly residential in character with a minimum of disturbance due to traffic or overcrowding.

(2) Specific District Standards

- a. A maximum of one (1) principal dwelling structure shall be allowed per lot.
- b. A maximum of one (1) accessory dwelling shall be allowed per lot as a conditional use if it meets the if it meets the standards for accessory dwellings in [Section 54-55\(i\)\(1\)](#) and the standards for accessory structures in [Section 54-74](#).
- c. A maximum of one (1) accessory structure may be provided if it meets the standards for accessory structures, uses and equipment in [Section 54-74](#).
- d. Covered carport open on at least three sides. The open portion of a covered carport must be set back at least ten feet from the property line.
- e. Resubdivision. Resubdivision of previously subdivided or platted land shall be as provided herein. The provisions of this subsection shall apply to any land, regardless of size, identified as a lot, tract or similar term and described by lot or tract number or letter, block number or letter, street address or similar means.
 1. Reserved.
 2. The planning commission and village council shall consider the size of adjoining lots, the effects of the resubdivision on those adjoining lots, the availability of village utilities and the capacity to provide utility service to the newly created lots, and other pertinent factors in determining the actual sizes of the lots to be allowed. Adjoining lots shall include those lots separated from the subject lots by a street or alley.
 3. The provisions herein shall not apply to:
 - i. Tracts of land described only by metes and bounds;
 - ii. Those cases where all of the land in a previously platted subdivision is owned by a single person and an application for replat of the entire subdivision is submitted pursuant to subsection 54-284(d)(1).
 4. Nothing herein shall be construed to prevent the replatting of smaller lots into larger lots or otherwise replatting contiguous or adjacent lots where there is no increase in the number of lots after the replat as otherwise provided by this Code.

(3) Other Applicable Standards

Table 54.41.1: R-1 District Dimensional Standards

Table 54.41.2: Other Applicable Standards

Development Type	Single Family Residential
Lot Standards	
Lot area, min	7,500 square feet
Lot width, min.	75 feet
Lot depth, min.	100 feet
Setbacks	
Front setback, min.	15 feet
Side setback min.	10 feet
Corner side setback, min.	20 feet
Rear setback, min.	15 feet
Setback Exceptions:	
Schools and civic, cultural, and religious institutions, including accessory structures	50 feet, all sides
Schools and civic, cultural, and religious institutions, including accessory structures Setback consistency	50 feet, all sides See Note ¹
Height	
Height, max.	35 feet

Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

(b) R-2 Two-Family Residential District

- (4) *Purpose; maximum density.* The purpose of the R-2 two-family residential district is to provide for the development, at a low density, of single-family detached dwellings, two-family dwellings and directly related complementary uses. The zone is intended to be strictly residential in character with a minimum disturbance due to traffic or overcrowding.

¹ When more than 25 percent of the frontage on the side of a street between intersections is occupied by structures having setbacks from street rights-of-way of greater or lesser amounts than required in this section, the average setback of all existing buildings between the intersections shall be maintained by all new or relocated structures. If a building is to be built where there is an established average setback different from that required in this section and there are existing buildings on one side only, the front setback of the new building need be no greater than that of the next adjoining existing building. In a case where a building is to be built where there is such an established average setback and there are existing buildings on both sides of the new building, the front setback shall not be greater than that which would be established by connecting a straight line between the forwardmost portion of the first adjacent building on each side.

Residential densities may be limited to protect the natural character of the village. Such limitations must be approved by the planning commission.

(5) Specific District Standards

Covered carport open on at least three sides. The open portion of a covered carport can encroach up to 10 feet into the front yard setback. The structure must be set back at least ten feet from the property line.

(6) Other Applicable Standards

Table 54.41.2: R-2 District Dimensional Standards	
Development Type	Two Family Residential
Lot Standards	
Lot area, min	9,000 square feet (4,500 square feet per unit)
Lot width, min.	40 feet per unit
Lot depth, min.	100 feet
Setbacks	
Front setback, min.	15 feet
Side setback min.	10 feet
Corner side setback, min.	20 feet
Rear setback, min.	15 feet
Setback Exceptions:	
Schools and civic, cultural, and religious institutions, including accessory structures	50 feet, all sides
Setback consistency on block frontage	See Note ²
Encroachments	Provide link

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V

² When more than 25 percent of the frontage on the side of a street between intersections is occupied by structures having setbacks from street rights-of-way of greater or lesser amounts than required in this section, the average setback of all existing buildings between the intersections shall be maintained by all new or relocated structures. If a building is to be built where there is an established average setback different from that required in this section and there are existing buildings on one side only, the front setback of the new building need be no greater than that of the next adjoining existing building. In a case where a building is to be built where there is such an established average setback and there are existing buildings on both sides of the new building, the front setback shall not be greater than that which would be established by connecting a straight line between the forwardmost portion of the first adjacent building on each side.

Table 54.41.2: R-2 District Dimensional Standards	
Height	
Height, max.	35 feet

Table 54.41.2: Other Applicable Standards	
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

(c) R-3 Multiple-Family Residential District

- (7) Purpose; maximum density. The purpose of the R-3 multiple-family residential district is to provide for high-density housing in multiple-family structures and directly related complementary uses. The R-3 district is designed to allow highly economical use of land while creating an attractive, functional, and safe residential environment. Residential densities may be limited to protect the natural character of the village. Such limitations must be approved by the planning commission.

(8) Specific District Standards

Multifamily dwellings (townhomes and apartments) cannot exceed six units or 135 linear feet, whichever is less.

- f. Outdoor living area in the minimum amount specified in the Table 54.41.3 must be provided on any lot occupied by the multiple residence or townhouse building. This space must be easily accessible for daily recreational use by the occupants of the building. Driveways, parking areas, ornamental landscaped areas having a width of less than 20 feet, and required side or front yards shall not be considered as an outdoor living area, except in the case of interior townhouse units where the unit is less than 20 feet in width, in which case the minimum width of the outdoor living area shall be the width of the lot.
- g. Lot area allowances. The minimum lot areas in this section may be adjusted according to the following, except that allowance shall not be made for two- or three-family dwellings
 - For each parking stall in or under the residence, or otherwise completely underground, subtract 400 square feet from the total minimum lot area.
 - 5. For each unit with a balcony or patio of not less than 40 square feet, subtract 100 square feet from the outdoor living area.
- h. Distance between buildings. When two or more principal buildings are located on one lot, the minimum separation between any two adjacent principal buildings shall be a distance of not less than an amount equal to the height of the taller of the two buildings or 20 feet, whichever is greater, when developed as a planned unit development. For major and minor site plans, building separation shall be the sum of two interior side yard setbacks.
- i. Accessory buildings. Accessory buildings shall observe the same setback requirements established for the multiple-residence buildings, except that accessory buildings located within the rear yard of the multiple-residence building may be located within five feet of the rear or interior side property line. The council may require common walls for accessory buildings on the same lot where common walls will eliminate unsightly and hazardous areas. Accessory buildings on the same lot shall otherwise be separated by a distance of not less than ten feet.
- j. Landscaping. Except for two-family lots and their adjacent rights-of-way, all areas not designated for buildings, circulation, parking or storage shall be landscaped in accordance with section 54-135. Landscaping of public parks shall be the responsibility of the village.
- k. Encroachments into yards.
 - 6. Open decks. Open decks shall be permitted to extend into the front, rear and side yard setback a distance of not more than five feet in the case of front yards and not

closer than five feet to the property line in the case of side yards and rear yards.

7. Covered patios, decks, porches or carports with a side wall. Covered patios, decks, porches or carports with side walls shall not be permitted encroachments on any setbacks.
8. Covered carport open on at least three sides. The open portion of a covered carport can encroach up to 10 feet into the front yard setback. The structure must be set back at least ten feet from the property line.
9. Roof projections into required side yards. A house or garage roof may not be constructed closer than two feet to a side property line.

(9) Other Applicable Standards

Table 54.41.4: R-3 District Dimensional Standards									
Use	Min Lot Area per Unit (Square Feet)*	Min Lot Width (Feet)	Min Lot Depth (Feet)	Outdoor Living Area (Square Feet per Dwelling Unit)	Building Height (feet)	Minimum Setbacks			
						Front	Interior Side	Corner Side	Rear
Single Family	7,500	75	100	Restricted by R-1 Setbacks	35	20	5	20	10
Two-Family	3,600	80	90	600	35	20	5	20	10
Three-family	3,000	80	90	500	35	20	5	20	10
Four-family	2,500	90	90	400	35	20	10	20	10
Townhouse/Condominium	2,000	90	90	400	35	20	10	20	10
Schools and civic, cultural, and religious institutions, includes their accessor structures	Minimum area and lot dimensions to be determined by building area, parking requirements and minimum setbacks.				35	50	50	50	50
Structures accessory to single-family residences					35	20	3	20	3
Other permitted uses					35	30	10	20	50

- See section (c)(2)c for exceptions.

Table 54.41.3: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72

Table 54.41.3: Other Applicable Standards	
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

(d) R-4 High-Density Residential District

- (1) *Purpose; maximum density.* The purpose of the R-4 high-density residential district is to provide for high-density housing in multiple-family structures and directly related complementary uses. The R-4 district is designed to allow highly economical use of land while creating an attractive, functional, and safe residential environment. Residential densities may be limited to protect the natural character of the Village. Such limitations must be approved by the planning commission.

(2) Specific District Standards

Distance between buildings. When two or more principal buildings are located on one lot, the minimum separation between any two adjacent principal buildings shall be a distance of not less than an amount equal to the height of the taller of the two buildings or 20 feet, whichever is greater, when developed as a planned unit development. For major and minor site plans, building separation shall be the sum of two interior side yard setbacks.

I. Accessory buildings.

- a. Accessory buildings shall observe the same setback requirements established for the multiple-residence buildings, except that accessory buildings located within the rear yard of the multiple-residence building may be located within three feet of the rear or interior side property line. The council may require common walls for accessory buildings on the same lot where common walls will eliminate unsightly and hazardous areas. Accessory buildings on the same lot shall otherwise be separated by a distance of not less than ten feet.
10. Exteriors of accessory buildings shall have an exterior finish compatible with the main structure. Compatibility shall be determined by the village based on type and use of building materials.
- m. Screening. All principal and accessory uses shall be screened from adjacent residential districts (except R-4 districts) as described in section 54-134.
- n. Landscaping. All areas not designated for buildings, circulation, parking or storage shall be landscaped in accordance with section 54-135. Landscaping of public parks shall be the responsibility of the village.
- o. Encroachments into yards.
- Open decks. Open decks shall be permitted to extend into the front, rear and side yard setback a distance of not more than five feet in the case of front yards and not closer than five feet to the property line in the case of side yards and rear yards.
11. Covered patios, decks, porches or carports. Covered patios, decks, porches or carports shall not be permitted encroachments on any setbacks.
12. Roof projections into required side yards. A house or garage roof may not be constructed closer than two feet to a side property line.

(3) Other Applicable standards

Table 54.41.4: R-4 District Dimensional Standards									
Use	Min Lot Area per Unit (Square Feet)*	Min Lot Width (Feet)	Min Lot Depth (Feet)	Outdoor Living Area (Square Feet per Dwelling Unit)	Maximum Building Height (feet)	Minimum Setbacks			
						Front	Interior Side	Corner Side	Rear
Apartment Buildings	?	90	90	300	35	20	10	20	20
Townhouse Cluster	?	90	90	400	35	20	15	20	20
Schools; civic, cultural, and religious institutions;	Minimum area and lot dimensions to be determined by parking requirements, outdoor living area, and minimum setbacks. Setbacks include related accessory structures.				35	50	50	50	50
Structures accessory to multifamily residences					35	20	3	20	3
Other permitted uses					35	30	10	20	50

- See section (c)(2)c for exceptions.

Table 54.41.4: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI

Table 54.41.4: Other Applicable Standards	
Wireless Telecommunications Facilities	Article VII

(e) AR-1 Agricultural/Residential District

- (4) *Purpose.* The purpose of the AR-1 district is to allow agricultural uses such as farming and ranching and single-family detached dwellings and related complementary uses. The district is intended to be rural in character.

(5) Specific District Standards

There shall be no development requirements for farming and ranching operations.

(6) Other applicable standards

Table 54.41.5: AR-1 District Dimensional Standards	
Development Type	Agricultural/Residential
Residential Lot Standards	
Lot area, min	2 acres
Lot width, min.	
Lot depth, min.	
Residential Setbacks	
Front setback, min.	20 feet
Side setback min.	20 feet
Corner side setback, min.	20 feet
Rear setback, min.	20 feet
Churches, schools and public buildings	
Lot area, min	1 acre
Setbacks	50 feet, all sides
Encroachments	No encroachments into yards permitted
Height	
Height, max.	35 feet

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

(f) M-1 Low-Density Mobile Home District

- (7) Purpose; maximum density. The purpose of the M-1 low-density mobile home district is to promote affordable housing and to make economical use of the land by allowing the development of mobile home subdivisions at gross residential densities of not more than five units per acre.

(8) Specific District Standards

Encroachments into yards.

Open steps and decks. Open steps and decks shall be permitted to extend into the front, rear and side yard setback a distance of not more than ten feet in the case of front yards and not closer than ten feet to the property line in the case of side yards.

13. Covered patios, decks, porches or carports. Covered patios, decks, porches or carports shall not be permitted encroachments in any setbacks, except as provided under section 54-140.

14. Roof projections into required side yards. A house or garage roof may not be constructed closer than two feet to a side property line.

- p. Landscaping. Except for mobile home and single-family lots and their adjacent rights-of-way, all areas not left in their natural state, or which have otherwise been disturbed by construction, and which are not designated for buildings, circulation, parking or storage, shall be landscaped in accordance with section 54-135. Landscaping of public parks shall be the responsibility of the village.

(9) Other applicable standards

Table 54.41.6: M-1 District Dimensional Standards	
Development Type	Mobile Home
Lot Standards	
Lot area, min	8,000 sf
Lot width, min.	60 feet
Lot depth, min.	100 feet
Setbacks ³	
Front setback, min.	20 feet
Side setback min.	10 feet
Corner side setback, min.	20 feet

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77

³ The setback and yard requirements listed in this section are subject to the following additional requirements for front setbacks: When more than 25 percent of the frontage on the side of a street between intersections is occupied by structures having setbacks from street rights-of-way of greater or lesser amounts than required in this section, the average setback of all existing buildings between the intersections shall be maintained by all new or relocated structures. If a building is to be built where there is an established average setback different from that required in this section, and there are existing buildings on one side only, the front setback of the new building need be no greater than that of the next adjoining existing building. In a case where a building is to be built where there is such an established average setback, and there are existing buildings on both sides of the new building, the front setback shall not be required to be greater than that which would be established by connecting a straight line between the forwardmost portion of the first adjacent building on each side.

Table 54.41.6: M-1 District Dimensional Standards	
Rear setback, min.	10 feet
Setback Exceptions	
Lot area, min	
Setbacks	
Schools and civic, cultural, and religious institutions	50 feet, all sides
Structures for all other principal, conditional or other uses	Minimum rear setback is 20 feet
Height	
Height, max.	35 feet

Table 54.41.2: Other Applicable Standards	
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

(g) M-2 Medium-Density Mobile Home District

- (10) Purpose; density. The purpose of the M-2 medium-density mobile home district is to promote affordable housing and to make economical use of the land by allowing the development of mobile home communities at gross residential densities of not more than ten units per acre.

(11) Specific District Standards

Encroachments into yards.

Covered patios, decks, porches or carports. Covered patios, decks, porches or carports shall not be permitted encroachments in any setbacks.

15. Roof projections into required side yards. A mobile home, single-family dwelling or garage roof may not be constructed closer than two feet to a side property line.

q. Landscaping.

The front setback area of each mobile home or single-family lot shall be landscaped or left in its natural state.

16. All private commonly owned recreation areas not devoted to buildings, structures, surfaced courts, sandboxes, etc., shall be landscaped and irrigated. Landscaping of public parks shall be the responsibility of the village.

- r. *Screening*. All principal and accessory uses shall be screened from adjacent residential zones (except M-2 districts) as described in section 54-134.

(12) Other Applicable Standards

Table 54.41.6: M-2 District Dimensional Standards	
Development Type	Mobile Home
Lot Standards	
Site area, min	5 acres
Lot area, min	5,000 sf
Lot width, min.	50 feet
Lot depth, min.	100 feet
Setbacks	
Front setback, min.	20 feet
Side setback min.	10 feet
Corner side setback, min.	10 feet
Rear setback, min.	10 feet
Setback Exceptions	
Setbacks	
Schools and civic, cultural, and religious institutions	50 feet, all sides

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84

Table 54.41.6: M-2 District Dimensional Standards	
Structures for all other principal, conditional or other uses	<div> <div>Corner side</div> <div>20 feet</div> </div> <div> <div>Rear</div> <div>20 feet</div> </div>
Height	
Height, max.	35 feet

Table 54.41.2: Other Applicable Standards	
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

Sec. 54-50 NONRESIDENTIAL DISTRICTS

(a) C-1 Neighborhood Commercial District

- (1) *Purpose.* The purpose of the C-1 neighborhood commercial district is to provide for establishment of local centers for convenient retail outlets which deal directly with the consumer for whom the goods or services are intended. These centers are located in predominately residential areas and are limited to a type of use compatible with the surrounding residential character of the area.
- (2) Specific District Standards
 - a. Access.
 - b. (Access to commercial activities shall be allowed only from arterial or collector streets or a street specifically designed for such development, provided, the planning commission may grant a variance from this provision upon a showing of good cause, if said commercial activity is located on either U.S. Highway 70 or State Highway 48.
 - c. Access points shall be located at least 150 feet from any street intersection.
 - d. Access points on the same street shall not be spaced closer than 100 feet as measured from the centerlines. Commercial developments of a small scale shall be encouraged to develop common access drives and parking facilities.
 - e. Commercial developments which may not be able to meet the requirements of subsections (e)(2) and (3) of this section and which are requesting deviations from such standards shall submit an engineer's report certified by a professional engineer addressing the following site conditions, both present and future:
 1. Traffic volumes.
 2. Turning movements.
 3. Traffic controls.
 4. Site design.
 5. Site distances.
 6. Location and alignment of other access points.

Based upon this data, the planning commission shall determine whether a deviation from the required standards is justified and, if so, what alternative requirements will be necessary.

(3) Other Applicable Standards

Table 54.50.8: C-1 District Dimensional Standards	
Development Type	Neighborhood Commercial
Lot Standards	
Lot area, min.	No min.
Lot width, min.	100 feet
Lot depth, min.	No min.
Setbacks	
Front setback, min.	25 feet

Table 54.50.2: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Commercial terrain management	Sec. 54-69
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75

Table 54.50.8: C-1 District Dimensional Standards	
Side setback min.	10 feet
Corner side setback, min.	10 feet
Rear setback, min.	10 feet
Setback Exceptions	
Adjacent to residential districts	Residential district setbacks apply
Parking lot ⁴	
Front	4 feet
Interior side and rear	4 feet
Corner side	3 feet
Residential district boundary	3 feet
Height	
Height, max.	35 feet

Table 54.50.2: Other Applicable Standards	
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII
Signs	Division 8

⁴ Under certain conditions, the planning commission may reduce the required standard yard setbacks and parking requirements as set out in subsection (f)(1)a of this section and section 54-141. It must be shown that, because of shared parking facilities and/or shared access and drives, the standard requirements for yard setbacks and parking would not be necessary or in the best interest of the citizens of the village.

(b) C-2 Community Commercial District

(1) *Purpose.* The purpose of the C-2 community commercial district is to provide for low-intensity retail or service outlets which deal directly with the consumer for whom the goods or services are intended. The uses allowed in this district are to provide goods and services on a community market scale and should be located in areas which are served by arterial street facilities.

(2) Specific District Standards

- a. Merchandise which is offered for sale may be displayed beyond the confines of a building in any C-2 district, but the area occupied by such outdoor display shall not constitute a greater number of square feet than ten percent of the ground floor area of the building housing the principal use, unless such merchandise is a type customarily displayed outdoors such as automobiles and garden supplies.
- b. All materials, supplies, merchandise or other similar matter not on display for direct sale, rental or lease to the ultimate consumer or user shall be stored within the confines of a 100 percent opaque wall or fence not less than six feet tall. No storage of any type shall be permitted within the one-half of the required front or side street setback nearest the street, or within any required interior side or rear setback.
- c. Additional districts. There are created additional sub-districts within the C-2 district, identified as C-2a through C-2f, as may be designated on the official zoning map after notice and hearing, and which are subject to the C-2 provisions herein, provided that additions or exceptions to the C-2 provisions may be made by ordinance from time to time for specific sub-districts.

(3) Other Applicable Standards

Table 54.50.9: C-2 District Dimensional Standards	
Development Type	Community Commercial
Lot Standards	
Lot area, min.	No min.
Lot width, min.	100 feet
Lot depth, min.	No min.
Setbacks	
Front setback, min.	20 feet
Side setback min.	10 feet
Corner side setback, min.	15 feet
Rear setback, min.	10 feet
Setback Exceptions	
Adjacent to residential districts	Residential district setbacks apply

Table 54.50.2: Other Applicable Standards	
Overlay zones/districts	Links
Non-residential terrain management	
Forest management	
Screening	
Landscaping	
Use of certain areas and structures as dwelling unit prohibited	
Fences	
Retaining Walls	
Setback and height encroachments, limitations, and exceptions	
Off-street parking facilities	
Off-street loading facilities	
Nonconforming uses and structures	
Miscellaneous performance requirements	

Table 54.50.9: C-2 District Dimensional Standards	
Parking lot ⁵	
Front	4 feet
Interior side and rear	4 feet
Corner side	3 feet
Residential district boundary	3 feet
Height	
Height, max.	35 feet

Table 54.50.2: Other Applicable Standards	
Noise abatement and emission control	
Lots not served by public water or sewer systems	
Architectural design standards	
Approved structures	
Urban-Wildland Interface Code	
Flood hazard regulations	
Airport hazard regulations	
Wildfire Hazard Overlay District	
Wireless Telecommunications Facilities	
Signs	

⁵ Under certain conditions, the planning commission may reduce the required standard yard setbacks and parking requirements as set out in subsection (f)(1)a of this section and section 54-141. It must be shown that, because of shared parking facilities and/or shared access and drives, the standard requirements for yard setbacks and parking would not be necessary or in the best interest of the citizens of the village.

(c) C-3 Midtown Commercial District

(1) *Purpose.* The purpose of the C-3 midtown commercial district is to allow the development of commercial retail and service establishments with carefully integrated multiple-family residential, entertainment and public parking facilities in the "Midtown" area of the village. The district encourages development to take place in an intensive fashion to facilitate pedestrian circulation and to maximize the use of valuable locations and existing infrastructure and building stock.

(2) Specific District Standards

- a. Merchandise which is offered for sale in the C-3 district may be displayed as follows:
- b. Merchandise may be displayed within the building footprint which includes the area up to and including the edge of the roof overhang.
- c. No display shall occur outside the area of the building footprint (outdoor sales) except as authorized below.
- d. The planning commission may grant a conditional use to authorize outdoor display of merchandise due to a unique configuration of the property or the type of merchandise offered for sale. Application, review and approval shall follow the conditional use procedures set forth in this chapter.
- e. Outdoor sales may be conducted as part of a special event sanctioned by the Midtown Merchants Association.
- f. A merchant may conduct an individual outdoor sales event twice a year as follows:
- g. Each event shall be limited to three consecutive days in duration.
- h. Only items of normal inventory of the business may be sold or displayed outdoors during the event.
- i. Merchandise shall not be displayed within any public right-of-way, impede vehicular or pedestrian traffic or obstruct any clear sight triangle required by this chapter.
- j. An outdoor sales special use permit shall be obtained from the planning department prior to each event. The planning department may require submittal of a site plan and event schedule with the application. The planning department may ask for comments by other village departments prior to issuing the special use permit and may impose restrictions on the event when issuing the permit.

(3) Other Applicable Standards

Table 54.50.10: C-3 District Dimensional Standards	
Development Type	Midtown Commercial
Lot Standards	
Lot area, min.	No min.
Lot width, min.	25 feet
Lot depth, min.	No min.
Setbacks	

Table 54.50.2: Other Applicable Standards	
Overlay zones/districts	Links
Non-residential terrain management	
Forest management	
Screening	
Landscaping	
Use of certain areas and structures as dwelling unit prohibited	

Table 54.50.10: C-3 District Dimensional Standards	
Front setback, min.	No min.
Side setback min.	No min.
Corner side setback, min.	No min.
Rear setback, min.	No min.
Setback Exceptions	
Adjacent to residential districts	Residential district setbacks apply
Multifamily structures Interior side and rear setbacks	Same as in the R-4 district
Parking lot ⁶	
Front	4 feet
Interior side and rear	4 feet
Corner side	3 feet
Residential district boundary	3 feet
Height	
Height, max.	35 feet

Table 54.50.2: Other Applicable Standards	
Fences	
Retaining Walls	
Setback and height encroachments, limitations, and exceptions	
Off-street parking facilities	
Off-street loading facilities	
Nonconforming uses and structures	
Miscellaneous performance requirements	
Noise abatement and emission control	
Lots not served by public water or sewer systems	
Architectural design standards	
Approved structures	
Urban-Wildland Interface Code	
Flood hazard regulations	
Airport hazard regulations	
Wildfire Hazard Overlay District	
Wireless Telecommunications Facilities	
Signs	

⁶ Under certain conditions, the planning commission may reduce the required standard yard setbacks and parking requirements as set out in subsection (f)(1)a of this section and section 54-141. It must be shown that, because of shared parking facilities and/or shared access and drives, the standard requirements for yard setbacks and parking would not be necessary or in the best interest of the citizens of the village.

(d) C-4 Heavy Commercial District

- (1) Purpose. The purpose of the C-4 heavy commercial district is to provide for construction-oriented businesses and service operations that are necessary to complement the economy of the village and in a manner consistent with the resort character of the village. Uses allowed in this district shall be located in areas which are served by arterial street facilities. There are no restrictions on outdoor sales or storage of materials, supplies, merchandise or other similar matter in this zone.

(2) Specific District Standards

- a. Access.
- b. Access for uses in the C-4 heavy commercial district shall be allowed only from arterial or commercial collector streets.
- c. Access points on arterial streets shall, whenever possible, be located at least 150 feet from any street intersection.

(3) Other Applicable Standards

Table 54.50.11: C-4 District Dimensional Standards	
Development Type	Heavy Commercial
Lot Standards	
Lot area, min.	No min.
Lot width, min.	100 feet
Lot depth, min.	No min.
Setbacks	
Front setback, min.	20 feet
Side setback min.	15 feet
Corner side setback, min.	15 feet
Rear setback, min.	15 feet
Setback Exceptions	
Adjacent to residential districts	Residential district setbacks apply
Parking lot ⁷	
Front	4 feet
Interior side and rear	4 feet
Corner side	3 feet
Height	

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Links
Non-residential terrain management	
Forest management	
Screening	
Landscaping	
Use of certain areas and structures as dwelling unit prohibited	
Fences	
Retaining Walls	
Setback and height encroachments, limitations, and exceptions	
Off-street parking facilities	
Off-street loading facilities	
Nonconforming uses and structures	
Miscellaneous performance requirements	
Noise abatement and emission control	
Lots not served by public water or sewer systems	
Architectural design standards	
Approved structures	
Urban-Wildland Interface Code	
Flood hazard regulations	

⁷ Under certain conditions, the planning commission may reduce the required standard yard setbacks and parking requirements as set out in subsection (f)(1)a of this section and section 54-141. It must be shown that, because of shared parking facilities and/or shared access and drives, the standard requirements for yard setbacks and parking would not be necessary or in the best interest of the citizens of the village.

Table 54.50.11: C-4 District Dimensional Standards	
Height, max.	35 feet

Table 54.41.2: Other Applicable Standards	
Airport hazard regulations	
Wildfire Hazard Overlay District	
Wireless Telecommunications Facilities	
Signs	

(e) I-1 Industrial District

- (4) Purpose. The purpose of the I-1 industrial district is to provide for the development of storage, warehousing, industrial and office facilities that are necessary to complement the economy of the village in a manner which is not detrimental to the overall resort character of the village and does not cause adverse off-site environmental impacts. Uses allowed in the I-1 district are those whose activities, including storage, take place entirely within enclosed buildings or areas not visible off-site, which have little or no emission of noise, smoke, dust, odor, vibration or glare, and which pose little or no danger to the public health and safety.

(5) Specific District Standards

None

(6) Other Applicable Standards

Table 54.41.12. I-1 District Dimensional Standards	
Development Type	Industrial
Lot Standards	
Lot area, min.	No min.
Lot width, min.	100 feet
Lot depth, min.	No min.
Setbacks	
Front setback, min.	35 feet
Side setback min.	15 feet
Corner side setback, min.	30 feet
Rear setback, min.	15 feet
Setback Exceptions	
Adjacent to residential districts	60 feet
Parking lot ⁸	
Front	4 feet
Interior side and rear	4 feet
Corner side	3 feet
Residential district boundary	3 feet
Height	
Height, max.	55 feet ⁹

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Links
Non-residential terrain management	
Forest management	
Screening	
Landscaping	
Use of certain areas and structures as dwelling unit prohibited	
Fences	
Retaining Walls	
Setback and height encroachments, limitations, and exceptions	
Off-street parking facilities	
Off-street loading facilities	
Nonconforming uses and structures	
Miscellaneous performance requirements	
Noise abatement and emission control	
Lots not served by public water or sewer systems	
Architectural design standards	
Approved structures	
Urban-Wildland Interface Code	
Flood hazard regulations	

⁸ Under certain conditions, the planning commission may reduce the required standard yard setbacks and parking requirements as set out in subsection (f)(1)a of this section and section 54-141. It must be shown that, because of shared parking facilities and/or shared access and drives, the standard requirements for yard setbacks and parking would not be necessary or in the best interest of the citizens of the village.

⁹ Buildings over 35 feet in height must be approved by the fire chief and the planning commission and shall be

Table 54.41.12. I-1 District Dimensional Standards

Table 54.41.2: Other Applicable Standards	
Airport hazard regulations	
Wildfire Hazard Overlay District	
Wireless Telecommunications Facilities	
Signs	

subject to additional fire protection precautions as determined by the fire chief.

Sec. 54-51 SPECIAL DISTRICTS

(f) PUD Planned Unit Development Districts

Commented [PT2]: Maintains existing language, but is reorganized to eliminate duplication.

(7) Purpose. The purpose and intent of planned unit development is to:

Produce more appropriate development than would result from the strict application of this article.

- d. Permit design flexibility that will encourage a more creative approach to the development of land and that will result in more efficient and aesthetically desirable alternatives to the housing needs of the community.
- e. Locate housing, recreation, shops, offices and industrial uses conveniently to each other for the benefit of the entire community.
- f. Permit flexibility of land use, placement of buildings, arrangement of open space, circulation facilities and off-street parking areas, and to maximize the potentials of individual sites under development.
- g. Promote the infill of vacant land within established village limits.
- h. Accomplish more aesthetic and desirable developments which can best utilize and protect special features of the geography, topography, size and shape of particular pieces of property and provide a compatible and stable environment in harmony with the surrounding area.

(8) Planned Unit Development Types

R-PUD Residential Planned Unit Development. Residential planned unit developments (R-PUD). Residential planned unit developments shall allow the principal permitted uses in the R-1, R-2, R-3, R-4 and C-1 zoning districts and shall contain at least 70 percent residential uses.

C-PUD Commercial Planned Unit Development. A commercial planned unit development shall allow the principal permitted uses in the C-1, C-2 and C-3 districts plus any type of residential use in the R-1, R-2, R-3 and R-4 districts. Residential use shall in no event exceed 50 percent of the total planned unit development area.

- i. M-PUD Mixed-use Planned Unit Development. A mixed use planned unit development shall permit any combination of land uses integrally developed under one concept and shall be permitted in any zoning district or combination of zoning districts. The use mix shall be approved by the planning commission as conforming to the comprehensive plan of the village.
- j. I-PUD Industrial Planned Unit Development. An industrial planned unit development shall include principal permitted uses in the I-1 and C-4 districts only, and may include conditional uses in the I-1 and C-4 districts on approval by the planning commission. No residential uses are permitted, and there is no open space requirement.

(9) Specific District Standards

The planned unit development shall consist of a harmonious selection of uses and groupings of buildings, parking areas, circulation and open spaces, and shall be designed as an integrated unit in such a manner as to constitute a safe, efficient and convenient community that complements the resort character of the village. The planned unit development may include one or more principal uses or structures on a single parcel of ground or contiguous parcels.

- k. Requirements and standards. All residential, commercial and industrial planned unit developments shall meet the minimum requirements of this section. In addition, the planning commission may require compliance with such other design standards relating to the construction, placement of buildings, landscaping, streets, pathways, drainageways and other site design features as it may deem necessary.

Ownership. The tract shall be a development of land under unified control at the time of application. It shall be planned and scheduled to be developed as a whole, though development may be phased in accordance with this section. No authorization or permits shall be granted unless the applicant has acquired actual ownership of, or executed a binding sales contract for, all of the property comprising such tract. The term "single ownership," as used in this section, shall include individuals who by legal agreement have joined to develop the property.

- 17. *Conformance with comprehensive plan.* The proposed planned unit development shall be consistent with the comprehensive plan of the village.

- 18. *Minimum total area.* The minimum total area of a planned unit development shall be no less than five acres unless the applicant shows that waiving the minimum area requirements would be in the public interest and that one or both of the following conditions exist:

Unusual physical features of the property itself or the surrounding area are such that standard development provisions are not appropriate to provide for conservation of terrain or physical features important to the neighborhood or community.

- (g) The property is adjacent to or across the street from property which has been developed under the provisions of this section and will contribute to the amenities of the neighborhood.

- 19. All applications for planned unit development approval shall designate the type of use mix for which application is made. Properties designated as planned unit developments in the zoning district map adopted June 28, 1988, may allow any planned unit development use mix designation except industrial planned unit development until approved by the planning commission in accord with section 54-69. No development shall be commenced until the planned unit development use mix is designated and approved by the planning commission.

- 20. Density. The number of dwelling units per acre allowable within a planned unit development shall be determined by the planning commission; however, in no event shall the number of dwelling units per acre exceed the maximum established by the following schedule, calculated based only upon the areas indicated for residential use:

Designated Use	Dwelling Units/Acre
R-1	6
R-2	10
R-3	18
R-4	25

If the unit density is not consistent with the policies of the Comprehensive Plan, the applicant has the burden to show that such increase in density will not have an undue and adverse impact on existing public facilities, neighborhood properties or the natural environment.

(h) In determining the reasonableness of the increase in unit density, the planning commission and the council shall consider increased efficiency in public facilities and services, based in part upon:

- (i) The location, amount and proposed use of common open space.
- (ii) The location, design and type of dwelling units.
- (iii) The physical characteristics of the site.
- (iv) Particular distinctiveness and excellence in siting, design and landscaping.

- 21. *Building setbacks generally.*** Residential building setbacks from all property lines which form the perimeter of the planned unit development shall be no less than 20 feet. Commercial building setbacks shall be no less than 35 feet or the height of the building, whichever is greater.
- 22. *Placement of more than one building on lot; compliance with subdivision regulations.*** More than one building may be placed on one platted or recorded lot in any planned unit development. Areas for single-family detached dwellings or other housing types providing privately owned lots must comply with the village's subdivision code (article III of this chapter) in all respects not specifically noted in this section as appropriate variances or waivers.
- 23. *Developments involving only one housing type.*** A planned unit development which only involves one housing type, such as all detached or all attached units, shall not be considered inconsistent with the stated purposes and objectives of this section, and this shall not be the sole basis for denial or approval.
- 24. *Architectural style and appearance of buildings.*** The architectural style of buildings shall not solely be a basis for denial or approval of a plan. However, overall appearance and compatibility of individual buildings with other site elements and with surrounding development will be primary considerations in the review stages of the planning commission and the council.
- 25. *Issuance of building permits.*** No building permits shall be granted for any building on land for which an application for a planned unit development is in the process of village review or which does not conform to an approved planned unit development.

26. Staging of development.

Any part of a plan for a planned unit development proposed to be constructed in stages shall include full details relating thereto, and the council may approve or modify where necessary any such proposals.

- (i) The staging shall include the time for beginning and completion of each stage. Such timing may be modified by the village on the showing of good cause by the developer.
- (j) The landowner or developer shall make such easements, covenants and other arrangements and shall furnish such financial guarantees as may be determined by the village to be reasonably required to ensure performance in accordance with the plan and to protect the public.

27. Streets, utilities, services and public facilities. The uniqueness of each proposal for a planned unit development may allow specifications and standards for streets, utilities and services to be subject to minor modifications of the specifications and standards established in this chapter and other village codes governing their construction. The village may, therefore, waive or modify the specifications or standards where it is found that they are not required in the interests of the residents of the planned unit development or the village. The plans and profiles of all streets, utilities and services shall be reviewed, modified, if necessary, and approved by the village prior to the final approval of the planned unit development. All planned unit developments shall be served by public or community water and sewer systems.

28. Open space. At least seven percent of the total area of the planned unit development shall be set aside for public and/or private open space and recreational use. The village shall determine what portion of the seven percent shall be private and what shall be public.

29. Operation and maintenance of common facilities. If certain land areas or structures are provided within the planned unit development for private recreational use or as service facilities, the owner of such land and buildings shall enter into an agreement with the village to ensure a continued standard of maintenance. These common areas shall be placed under the ownership of one of the following, depending on which is more appropriate:

Dedicated to the public where a community-wide use would be anticipated.

- (k) Landlord control.
- (l) Landowners' association, provided all of the following conditions are met:
 - 1. The landowners' association must be established prior to any sale.
 - 2. Membership must be mandatory for each owner and any successive buyer.
 - 3. The open space restrictions must be permanent, not for a given period of years.
 - 4. The association must be responsible for liability insurance and the maintenance of recreational, service and other facilities as deemed

necessary by the village.

5. Landowners must pay their pro rata share of the cost, and the assessment levied by the association can become a lien on the property in accordance with state statutes.
6. The association must be able to adjust the assessment to meet changing needs.

30. Landscaping. Landscaping and/or fencing shall be provided according to a plan approved by the village and shall include a detailed planting list with sizes indicated.

31. Underground installation of utilities. All utilities, including electricity and telephone service, shall be installed underground.

(10) Other Applicable Standards

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Links
Non-residential terrain management	
Forest management	
Screening	
Landscaping	
Use of certain areas and structures as dwelling unit prohibited	
Fences	
Retaining Walls	
Setback and height encroachments, limitations, and exceptions	
Off-street parking facilities	
Off-street loading facilities	
Nonconforming uses and structures	
Miscellaneous performance requirements	
Noise abatement and emission control	
Lots not served by public water or sewer systems	
Architectural design standards	
Approved structures	
Urban-Wildland Interface Code	
Flood hazard regulations	
Airport hazard regulations	
Wildfire Hazard Overlay District	
Wireless Telecommunications Facilities	
Signs	

Sec. 54-52 OVERLAY ZONES

Short-Term Residential Rental Overlay Zone

- (11) Purpose of zone. The Governing Body of the Village of Ruidoso finds and declares as follows:

Short-term residential rentals provide a community benefit by expanding the number and type of lodging facilities available to seasonal visitors.

- l. Short-term residential rentals are not commercial but are strictly a residential use of the property under the Village of Ruidoso Municipal Code.
 - m. The provisions of this section are necessary to prevent a burden on village services and impacts on residential neighborhoods posed by short-term residential rentals.
- (12) Applicability of requirements. This overlay zone applies to all non-commercial residential property within the village regardless of the zoning district. These requirements of section 54-106 shall apply to dwelling units that are rented at some time during the year for a short duration that are not part of a commercial business enterprise such as a hotel, motel or commercial cabin rental located on a single lot or a group of contiguous lots within a commercial zoning district. These requirements do apply to individual dwelling units on non-contiguous property owned and operated by a hotel, motel or commercial cabin rental owner.
- (13) Definitions. For purposes of this section, the following words and phrases shall have the meaning respectively ascribed to them by this subsection:

Local contact person means an owner, representative of the owner or local property manager who lives in the Village of Ruidoso or within proximity of the village limits such that he/she is available to respond within an hour or less to tenant and neighborhood questions or concerns and is authorized to respond to any violation of this section and take remedial action.

- n. Managing agency or agent means a person, firm or agency licensed with the New Mexico Real Estate Commission representing the owner of the residential rental, or a person, firm or agency owning the residential unit.
- o. Operator means the person who is proprietor of a residential rental, whether in the capacity of owner, lessee, sub-lessee, or mortgagee in possession.
- p. Owner means as defined in section 1-2 of this Code.
- q. Remuneration means compensation, money, rent, or other consideration given in return for occupancy, possession or use of real property.
- r. Rent means the consideration charged, whether or not received, for the occupancy of space in a residential rental, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature, without any deductions therefrom whatsoever.
- s. Short-term residential rental means a dwelling unit or one bedroom within a dwelling unit, including either a single-family detached or multiple-family attached unit, rented for the purpose of overnight lodging for a period of not less than one night nor more than 29

consecutive days to the same person or persons.

- t. Sleeping unit as defined by the International Building Code, 2015, and as amended, means a room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
- u. Third-party internet listing service means an internet-based (or online) marketplace that connects owners of short-term residential rentals to potential renters by way of a website and in exchange for a service fee. Third-party listing agent shall not mean local contact person or managing agency or agent as defined in this chapter.

- (14) Short-term residential rental permit required. No owner of a residential dwelling unit shall rent the unit for a short term without having a current valid short-term residential rental permit issued by the Village of Ruidoso. Short-term residential rental permits are issued to the owner for a period of one year and are non-refundable.

Nothing contained within this section shall be construed to abridge the ability of bona fide neighborhood covenants and/or deed restrictions to be more restrictive than the regulations within this section. Such covenants and deed restrictions shall not be enforceable by the Village, but remain the responsibility of property owners to ensure compliance within the applicable neighborhood.

- (15) Application for short-term residential rental permit. The dwelling unit owner or managing agency shall apply to the village for a short-term residential rental permit and supply, at a minimum, the following information:

The maximum number of occupants and vehicles that the dwelling unit can accommodate.

The parking calculation shall be based upon a minimum of one off-street parking space provided per sleeping unit. Properties offering a single-room rental must also meet parking requirements as set forth in section 54-141 {e} (1) a.

32. The occupancy per sleeping unit shall be determined by the floor area of each sleeping unit, number of restrooms per dwelling unit, infrastructure suitable to service the occupants and shall be in accord with habitable and occupancy codes contained within the duly adopted Code or successor as required per section 22-31(a).

- v. The name, address, email address and contact telephone numbers (including 24-hour emergency contact number) of the owner of the residential rental for which the permit is to be issued.
- w. The name, address, email address and contact telephone numbers (including 24-hour emergency contact number) of the agent, representative or local contact person for the owner of the residential rental.
- x. An application fee of \$50.00 per year.
- y. Compliance inspections are required on all short-term permits. The inspections are valid for biennial (every two years), and the fee is \$40.00.

After a permit is issued the compliance inspections will be conducted by Village of

Ruidoso staff no later than 30 days.

If the property is not in conformance with the compliance requirements at the time of the inspection, a correction notice will be issued, and a reinspection fee may be assessed of \$40.00 if the inspector is required to return.

The compliance inspection shall meet the following requirements:

An ABC type fire extinguisher(s) to be mounted at points of egress, with at least one provided per floor and minimum one per dwelling unit with at least two per dwelling unit if greater than 1,000 square feet, at a height not to exceed 48 inches. Extinguishers must be inspected and maintained according to state requirements and must properly display the inspection history of the device.

33. Approved (and working) smoke alarms installed as per manufacturer's instructions in every sleeping room, in compliance as required per section 22-31(a) of this Code and on every level of the home, including the basement.

34. Every sleeping room and living area with access to a primary means of escape shall provide a clear, unobstructed path of travel to the outside.

35. Where approved, an open fire permit in accordance with section 42-42 of the Village of Ruidoso Code of Ordinances shall be posted at, or immediately adjacent to the primary entrance to the building. Outdoor cooking appliances shall be properly maintained and notification visibly posted for their permitted use in accordance with section 42-42. Indoor fireplaces shall be properly maintained and inspected by a qualified person as necessary.

36. Authority for code compliance inspection. By submitting application, the owner authorizes the Ruidoso Fire Department, the village code enforcement officer or other designated village employee or representative to conduct a code compliance inspection of the residence at intervals deemed appropriate by the village, or if deemed necessary when it is alleged or suspected that a violation of this section may exist or have occurred.

z. Owner/agent authorization.

aa. Business registrations and taxes.

Business registrations are \$35.00 and are required for anyone conducting business within the Village of Ruidoso.

If an owner rents, lists, or books their property with a managing agency, a business registration is not required.

If a property owner rents, lists, or books their property without a managing agency, a business registration is required.

bb. Notification to adjacent property owners shall be required for all short-term rental permits.

The notification fee is \$25.00. The staff of the Village of Ruidoso will notify all property

owners within 200 feet of the permitted property notifying the intent to use their home as a short-term rental, and the name and number of the local contact person.

Managing agent may opt out to perform this task by certifying compliance with the notifications. If the managing agent opts out to perform this task, the \$25.00 fee will not be charged.

- cc. The owner or managing agent/agency shall attest that they have met these requirements in each property registered as part of the initial rental registration and each successive renewal registration. The form utilized to attest to these requirements shall be part of the registration form provided by the village and be authenticated by a notary public.
- (16) Application renewal or update. Prior to the expiration of the permit or when there is a change to the information contained in the permit regarding ownership, changes in the structure or parking area, or contact person, a new permit application shall be submitted. A transfer fee of \$10.00 shall be assessed.
- (17) Fees. Fees are set forth in appendix A to this Code. The initial application fee sufficient to cover the cost of processing the application, reviewing the information submitted, and issuing a revised permit.
- (18) Review of application and issuance of permit.
 - The village shall complete review of the initial permit application within ten business days. Renewals notifications of all permits shall occur 30 days prior to renewal. Such permits that are active at the time of this ordinance adoption shall not need to be prorated if extending their expiration to coincide with the new renewal date.
- dd. Once the application review is complete, the village shall notify the applicant of the decision of whether or not to issue the permit based on compliance with this section. If approval is granted, the village will issue a short-term residential rental permit specifying the maximum number of cars and the maximum number of occupants allowed. Failure to renew the permit within 30 days after the applicable first day of August shall subject the owner to payment of a late permit renewal penalty fee.
- ee. An application for permit or renewal application shall be denied if:
 - All applicable fees and taxes have not been paid, including lodgers' taxes as provided under chapter 78, article II of the Village of Ruidoso Code of Ordinances; or
 - 37.** Outstanding property nuisance or building code violations exist on the property; or
 - 38.** The applicant has not met the fuels management certification requirements of section 42-80, or as amended, of the Village of Ruidoso Code of Ordinances; or
 - 39.** The owner of the property is not compliant with subsection (h)(6) herein and has exceeded the number of adjudicated citations afforded under that subsection.
- ff. The Village of Ruidoso recommends all property owners to purchase short-term rental insurance.
- gg. Failure to comply with any provision of chapter 78 of the Village of Ruidoso Code of Ordinances may result in a revocation of the permit for a 12-month time period at the

discretion of the planning director.

hh. If the dwelling unit owner plans to discontinue short-term residential rental of the property, a statement to that effect shall be filed with the village and the permit will be revoked.

(19) Tenant notification requirements. Each short-term residential rental unit shall have a clearly visible and legible notice posted by the owner or managing agency or agent within the unit on or adjacent to the interior of the front door containing the following information:

A copy of the short-term residential rental permit.

ii. The name of the managing agency, agent, property manager, local contact person or owner of the unit, and a telephone number at which that party can be reached on a 24-hour, seven days a week basis.

jj. The maximum number of occupants three years of age and older permitted to stay in the unit.

kk. The maximum number of vehicles allowed to be parked on the property.

ll. The number of on-site parking spaces and the parking rules for seasonal snow removal (if applicable).

mm. The specific procedures regarding the disposal of trash and refuse.

nn. A notification that an occupant may be cited and fined for creating a disturbance and/or for violating other provisions of the Village of Ruidoso Municipal Code.

oo. Notice that noise provisions contained in the Village of Ruidoso Municipal Code section 38-31 will be enforced.

pp. Notification that the Village of Ruidoso Municipal Code prohibits ground fires, camp fires, fire rings and fire pits other than by permit.

qq. The 911 address for the property.

rr. Notice that animal leash laws contained in section 14-8 (prohibited acts; animal nuisances; vicious or dangerous animals) will be enforced.

ss. Notification that the Village of Ruidoso Municipal Code section 42-40 makes it "unlawful for any person to discard a lit cigarette, cigar, match or other type of incendiary material."

(20) Exterior advertising or signage. Exterior signage on short-term rental units which indicate availability, phone numbers or other type of information is prohibited. For the purposes of this section, signage shall only be permitted if it includes the name of the dwelling unit or owner's name and does not include advertisement of the property.

(21) Penalties for violation of requirements of this section. In addition to any other penalties or fines authorized by the Village of Ruidoso Municipal Code, the owner of a short-term residential rental unit shall be required to pay a penalty as set forth in appendix A to this Code in order to obtain, retain or renew a short-term residential rental permit.

Each day that an owner rents a unit for a short term without first obtaining a short-term residential rental permit is considered a separate violation of the Village of Ruidoso Municipal Code as provided for in section 1-6.

- tt. The village code enforcement officer or other designated village employee or representative shall take action to correct the violation as provided for in this Code or state statute.
- uu. The first suspected or observed violation of this section by the village may result in an initial warning notice requesting registration of the unregistered short-term residential rental unit in accordance with the provisions of this code without subject to penalty. Should the property owner fail to comply after receiving such initial notice from the village, penalties may be assessed as provide elsewhere in this Code in section 1-6, including the assessment of a registration fee twice the listed amount.

(Ord. No. 2009-06, 3-10-09; Ord. No. 2017-06 , § 1, 5-9-17; Ord. No. 2019-01 , 1-8-19; Ord. No. 2019-03 , 3-12-19)

DIVISION 5: USE REGULATIONS

Sec. 54-53 GENERAL PROVISIONS

Table 54.54.1 identifies the uses allowed as a principal use in each district. Some of the listed uses have use specific standards that further define how uses can be conducted. If use specific standards are in place, they are indicated in the 'supplemental use standards' column and a link is provided to the specific standards for that use.

- (m) Accessory Uses identify uses commonly allowed as secondary to principal use, some of which have applicable use specific standards.
- (n) Temporary Uses identify uses allowed on a temporary basis. Applicable use specific standards are identified in the 'supplemental use standards' column.
- (o) If a particular use or structure is not specifically listed in Table 54.54.1, the Community Development Department has the authority to interpret the intent of the Zoning Ordinance and to treat the unlisted use or structure in the same manner as a similar use or structure listed in Table 54.54.1. If no similar use or structure is listed for a district, the presumption shall be that the unlisted use or structure is prohibited.

Sec. 54-54 USE TABLE

Purpose. The purpose of this section is to authorize the establishment and continuation of land uses allowed as the principal uses, accessory and/or temporary uses of a lot. Table 54.53.1 lists the uses allowed in all districts.

(a) Table Abbreviations. the following abbreviations to designate whether and how a principal use is allowed within a zone:

- (1) P: A "P" (Permissive) indicates the use is permitted by right within the respective district. Permitted uses are subject to all other applicable regulations of this Ordinance, including the supplemental use standards in this section and the requirements of Section 10-4, Development Standards.
- (2) C: A "C" (Conditional) indicates the land use is allowed within that district upon approval of a Conditional Use Permit and upon compliance with any Use-specific standards and with all other applicable requirements of this Ordinance.
- (3) A: An "A" (Accessory) indicates the use is Accessory (i.e. allowed as an accessory use compatible with a Permissive or Conditional use on the lot) and is subject to any applicable Use specific Standards.
- (4) T: A "T" (Temporary) indicates a use that is allowed within that district for a limited time upon approval of a Temporary Use Permit and upon compliance with any Use-specific standards and with all other applicable requirements of this Ordinance.
- (5) A blank cell indicates the use is prohibited within the respective district.

Table 54.53.1 Allowable Uses															
P = Permitted Use T = Temporary Use C = Conditional Use A = Accessory Use Blank means use is not allowed in the district															
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD
Agricultural Uses															
Farm and ranch					P										
Plant nursery					P										
Private stables	C				P										
Cannabis producer					P						P	P			Sec. 54-55(a)(1)
Cannabis producer microbusiness					P							P			Sec. 54-55(a)(2)
Residential Uses															
Single family dwellings	P	P			P	P	P	C					P	P	Sec. 54-55(b)(1)
Two-family dwelling	C	P	P					C					P	P	Sec. 54-55(b)(2)
Caretaker quarters								C	C	C	C	C			Sec. 54-44(b)(3)
Multifamily dwellings		C	P	P	P	C	C	P	P	C	P		P	P	Sec. 54-55(b)(4)
Mobile home						P	P								Sec. 54-55(5)
Group home			C	C				C	C						Sec. 54-44(6)
Nursing home								C	C						Sec. 54-55(7)
Hospitality/Lodging															
Hotel/motel								P	P	C	C	C		P	Sec. 54-55(c)(1)

Commented [PT3]: Removes restrictions on units per structure, length of buildings. Where use is permissive, imensions will be determined by setbacks, parking, landscaping, and other standards.

Commented [PT4]: Existing code regulates hotels with 50 units or less and more than 50 units differently. Use specific standards require a site plan, make hotels conditional in C-3. Cabin rentals, not including cabins in campgrounds, are included in this category.

Table 54.53.1 Allowable Uses																
P = Permitted Use C = Conditional Use A = Accessory Use																
T = Temporary Use Blank means use is not allowed in the district																
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD	Use Standards
Cabin rentals, less than five units								C	C	C	C	C		C		
Cabin rentals, 5+ units								P	P	C	C	C		P		
Overnight campground									C		C	C				Sec. 55-54(c)(2)
Recreational vehicle park									C		C					Sec. 55-54(c)(3)
Food and Beverage																
Restaurant								P	P	P	C	P		P		XXX
Convenience food restaurant									C	C		P				XXX
Brewery/Winery/Distillery								P	P	P	C	C		P	P	XXX
Bar or nightclub									P	P	C	C		P		XXX
Commercial Uses																
Light vehicle washing establishment									C		P	P			P	XXX
Automobile fuel sales									C		P	P		P		XXX
Automobile, boat or RV sales, rental, service and repair									C			P		P	P	XXX
Adult or Child Care Facility	C	C	C	C		C	C	P	P	C	P		C	P		XXX
Convenience food store								P		P	C			P	P	
Retail, general								P	P	P	C	C		P	P	XXX
Cannabis retailer								P	P	P	C	C			P	XXX
Cannabis testing laboratory								P	P		P	P				XXX
Cannabis research laboratory								P	P		P	P				XXX
Cannabis courier								P	P	P	P			P	P	XXX
On-site cannabis consumption premises								P	P	P	C					XXX
Tobacco sales								P	P	P	C	C		P	P	XXX
Liquor for consumption off site									P	P	C				C	XXX
Shopping center								P	P		P	C				
Office								P	P	P	C	C		P	P	
Personal and convenience services								P	P	P	C	C		P	P	
Financial institution								C	P	P	C	C				
Club and meeting facility									P	P	C	C				
Hospital									P	P	C	C				XXX
Medical or dental clinic									P	P	C	C				
Radio and television studio									P	P	C	C				
Printing and publishing house									P	P	C	C		P		

Commented [PT5]: Should courier be permitted in I-1? There are permitted cannabis uses in I-1 and I-PUD.

Table 54.53.1 Allowable Uses																
P = Permitted Use C = Conditional Use A = Accessory Use																
T = Temporary Use Blank means use is not allowed in the district																
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD	Use Standards
Media production facility									P	P	C	C		P		
Animal hospital and/or clinic									P			P		P		
Animal hospital and/or clinic with open animal runs																XXX
Kennel, within an enclosed building									P		P	C			P	
Kennel, with open animal runs									C		P				P	XXX
Adult entertainment, retail sales and/or live entertainment									C							XXX
Landscape nursery, retail								P	P	P	C	C		P		
Landscape nursery, wholesale or bulk sales									C		P	P		C	P	XXX
Firewood sales									C		C	P		C	P	XXX
Mobile Vending									C	C	C	C	C	C	C	XXX
Industrial Uses																
Artisan manufacturing									P		P	P		C	P	XXX
Light manufacturing									C		P	P		C	P	XXX
Heavy manufacturing											P	P			P	XXX
Special manufacturing												C			C	XXX
Cannabis manufacturer									C		P	P				XXX
Storage units								C	C		P			C	P	XXX
Building material sales and storage									C		P	P		C	P	XXX
Feed, grain and fertilizer sales and storage												P		C	P	XXX
Firewood sales, splitting and storage									C		P	P			P	XXX
Bulk fuel sale or storage									C		P	P			P	XXX
Automobile, boat, motorcycle or RV sales, service and repair										C	P	P			P	XXX
Heavy vehicle and equipment sales, rental, service and repair											P	P			P	XXX
Automotive upholstery shop									P		P	P			P	
Tire sales, service and repair									C		P	P			P	
Contractor's shop and yard									C		P	P			P	XXX
Warehousing, storage and distribution											P	P			P	XXX
Metalwork and/or machine shop									C		P	P			P	XXX
Glass cutting and finishing									C		P	P			P	XXX

Table 54.53.1 Allowable Uses																
P = Permitted Use T = Temporary Use C = Conditional Use A = Accessory Use Blank means use is not allowed in the district																
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD	Use Standards
Engraving shop									P		P	P			P	XXX
Towing or wrecker service											C	P		P		XXX
Recycling purchase center, not including processing and storage											C	P		P		
Bulk storage of nonexplosive liquids											C	P		P		XXX
Television and radio towers									C		C	P			P	XXX
Public/Institutional Uses																
Church	C	C	C	C	C	C	C	P	P	P	P		P	P		
School	C	C	C	C	C	C	C	C	P	P	C			P		
Public Buildings		C	C	C	C	C	C	P	P	P	P	C	P	P	P	
Library								P	P		P		P	P		
Instructional center, other than a school									P	P	P			P		
Trade school									P		P	P		P	P	
Airport												C			C	
Recreation and Entertainment Uses																
Neighborhood park or public open space	C	C	C	C	C	C	C	C	C	C	C	C	C	C		XXX
Entertainment, recreational, health and exercise facility, indoor								P	P	P	P	C		P		XXX
Entertainment, recreational, health and exercise facility, outdoor									C			P		P	P	XXX
Shooting range, indoor and outdoor									C		C	C			C	XXX
Swimming pool, commercial									C	C	C			C		XXX
Utilities/Telecommunication																
Utilities, Major	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	XXX
Utilities, Minor	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	XXX
Wireless telecommunications	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Wireless telecommunications facilities
Accessory Uses																
Accessory dwelling unit	A	A	A	A	A								A	A		Accessory dwelling unit
Caretaker unit											A	A		A	A	Sec. 54-55(1)(2)
Drive up or drive through service window								A	A		A	A		A	A	Sec. 54-55(1)(3)

Table 54.53.1 Allowable Uses																
P = Permitted Use		T = Temporary Use														
C = Conditional Use																
A = Accessory Use		Blank means use is not allowed in the district														
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD	Use Standards
Home Occupation	A	A	A	A	A	A	A									Sec. 54-55(i)(4)
Family Child Care Home	A	A	A	A		A	A									Sec. 54-55(i)(5)
Outdoor storage, within enclosed yard									A		A	A				
Electrical Vehicle Charging Station, Commercial or Public								A	A	A	A	A		A	A	Sec. 54-55(i)(6)
Temporary Uses																
Special event								T	T	T	T	T		T	T	xxx
Outdoor sales								T		T						Outdoor sales
Circus, carnival, or similar enterprise									T							XXX

Sec. 54-55 USE SPECIFIC STANDARDS

(a) Agricultural Uses

(1) Cannabis producer

This use must comply with applicable local and state laws and regulations.

(2) Cannabis producer microbusiness

This use must comply with applicable local and state laws and regulations.

(b) Residential Uses

(1) Single-family detached dwelling

If the single family dwelling meets the definition of a manufactured home and is not located in the MH-1 or MH-2 district, the manufactured home must meet the definition of a multi-section manufactured home installed on a permanent foundation consistent with the Manufactured Housing Act (NM Statutes 3-21A1-8)

(2) Two-family dwelling

A two-family dwelling is a principal residential building occupied by 2 dwelling units, both of which are located on the same (single) lot, which is not occupied by other principal residential buildings. The 2 dwelling units are attached and may be located on separate floors or side-by-side.

(3) Caretaker quarters

One dwelling unit for security or 24-hour supervision may be allowed on the premises of a nonresidential principal use if approved as a conditional use.

(4) Multifamily dwelling

A multifamily dwelling permitted as a conditional use in the R-2 District may not exceed four dwelling units per building.

(5) Mobile home

- a. Placement and maintenance of mobile homes; mobile home construction standards.
- b. No mobile home may be placed upon any lot prior to submittal of a site plan to the village and receipt of subsequent approval of the site plan as provided in [Section 54-63](#).
- c. There shall be no occupancy of any mobile home until an occupancy permit is issued. No occupancy permit shall be issued if the mobile home is not connected to public sewer and water lines, unless an alternate system is approved by the village engineer.
- d. No mobile home may be parked on a roadway for more than 24 hours.
- e. No abandoned, burned or wrecked mobile home may be kept within the M-1 district for more than 30 days.
- f. Each mobile home must bear an insignia which attests that the construction of the mobile home meets regulation A119.1 of the American National Standards Institute (adopted by the U.S. Department of Housing and Urban Development).
- g. Standard mobile home skirting must be provided around the entire perimeter of the mobile home between the bottom of the body of the mobile home and the ground.
- h. Each mobile home must be anchored to the ground in a manner acceptable to the building official.
- i. Each mobile home must be stabilized from beneath using a concrete masonry and/or metal support system acceptable to the building official.
- j. There shall be no exposed outdoor storage of furniture (except lawn furniture), household goods, tools, equipment or building materials or supplies.
- k. Inspections.

The planning administrator or his agent is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this article and shall have the authority to enter at reasonable times upon any private or public real property for the purpose of inspecting and investigating conditions relating to the enforcement of this article.

- l. It shall be the duty of the owners or occupants of a lot in a mobile home subdivision to allow the planning administrator or his agent free access to such premises at reasonable times for the purpose of inspections.

(6) Group home

- a. A group home must comply with applicable local, state, and federal regulations.

- b. In residential districts, the appearance of a group home must be compatible with the character of dwellings in the surrounding neighborhood.

(7) Nursing home

A nursing home must comply with applicable local, state, and federal regulations.

(c) Hospitality/Lodging Uses

(1) Hotel/motel

An application for a hotel must be accompanied by a site development plan as described in Section .

(2) Overnight campground.

The minimum size of a campground is two (2) acres.

(3) Recreational vehicle (RV) park

The minimum size of an RV Park is two (2) acres. Commercial Uses

(d) Automobile Related Uses

(1) Automobile service station

- a. Site improvements such as buildings or structures (permanent or temporary) shall be separated from any residential district by at least 50 feet. Parking areas shall be separated from any residential district by at least 15 feet.
- b. The total site area shall not be less than 12,000 square feet.
- c. Pump islands shall be set back not less than 25 feet from any street right-of-way line, not less than 40 feet from any non-street line, and not less than 75 feet from any residential district boundary.
- d. Hydraulic hoists, pits and all lubrication, greasing, washing, repair and diagnostic equipment shall be used and enclosed within a building.
- e. Interior curbs of not less than six inches in height shall be constructed to separate driving surfaces from sidewalks, landscaped areas and street rights-of-way.
- f. No automobile service station on a site contiguous to any residential district shall be operated between the hours of 10:00 p.m. and 7:00 a.m. of the following day.

(2) Automobile and motor vehicle service and repair facilities

- a. All materials, merchandise and equipment, other than motor vehicle fuels, shall be stored within an enclosed building.
- b. Vehicles that are actively being serviced or repaired may be temporarily stored on site. Vehicles must be screened from residentially zoned properties and public rights of way as required in Section [screening standards ref]

(3) Light vehicle washing establishment

- a. Light vehicle washing establishments shall be subject to the same limitations and conditions as automobile fuel stations as set out in subsections (d)(1)a. through f. of this

section.

- b. Sufficient off-street area to provide space for not less than ten automobiles waiting to be washed or three waiting spaces per washing stall, whichever is greater, shall be provided. A space 20 feet by nine feet shall be deemed adequate for each such required space.
- c. All washwater disposal facilities, including sludge and grit removal and disposal equipment, shall be subject to the approval of the village engineer, and shall conform with all village ordinances regarding sewage and health, and shall be designed so as not to detrimentally affect the village water or sewer system.

(e) Commercial Uses

- (1) Adult or child care facility. A minimum of 35 square feet per child shall be provided within a child care facility for indoor activity and at least 50 square feet of fenced-in outdoor play space per child shall be provided on site. Fenced-in outdoor play space shall not include driveways, parking areas or land unsuited for children's play space by virtue of the usage or natural features. A state license shall be obtained prior to commencement of operation of an adult or child care facility.

(2) Retail, general

- a. A retail business can have up to 10% of ground floor area of the principal use for outdoor displays

Outdoor merchandise displays must be screened from adjacent Residential districts or adjacent residences.

- b. Outdoor storage is not allowed.

(3) Cannabis Retail

This use must comply with all local, state, and federal regulations.

(4) Tobacco sales

All establishments selling tobacco products must comply with state laws and regulations and licensing requirements.

(5) Restaurant

- a. Alcohol sales for consumption on site are allowed.
- b. Alcohol sales must comply with state laws and regulations.

(6) Convenience food restaurant

Convenience food restaurants shall be subject to the same limitations and conditions as automobile service stations as set out in subsection (d)(1)a. through f. of this section.

(7) Hospital

- a. This use should be screened from Residential districts and any lot with a residential use.
- b. Heliports are permitted as a use incidental to a hospital.

- (8) Bar and nightclub
- Alcohol sales are for on-premise consumption only.
 - Alcohol sales must comply with state laws and regulations.
- (9) Liquor for consumption off-site
- This use must comply with state laws and regulations.
 - Liquor sales for off-site consumption shall not be located within three hundred (300) feet of an active religious institution or educational facility as measured from the property line of the licensed premises and the property line of the restricting facility.
- (10) Brewer/winery/distillery
- Breweries, wineries and distilleries must comply with state laws and regulations for a small brewer's license, domestic winery, and craft distiller's license.
- (11) Animal hospital and clinic, with open animal runs
- Outdoor animal runs are permitted as an accessory use provided that they are enclosed with a solid wall or fence at least six feet in height.
 - This use must comply with section 38-62 regarding property nuisances
- (12) Kennel, with open animal runs
- Outdoor animal runs are permitted as an accessory use provided that they are enclosed with a solid wall or fence at least six feet in height.
 - This use must comply with section 38-62 regarding property nuisances.
- (13) Adult entertainment, retail sales and/or live entertainment
- These uses are prohibited in the following locations:
 - Within 500 feet in any direction of any Residential zone district; lot containing any residential use in any Mixed-use zone district; religious institution; or elementary, middle, or high school.
 - Within 1,000 feet in any direction of another premises containing an adult entertainment or adult retail use.
- (14) Mobile vending
- Mobile vending includes any activity involved with food preparation or sales and sales of merchandise from a mobile truck or trailer.
 - Other than special events approved as a temporary use, the mobile vending must receive approval as a conditional use and meet the following standards:
 - The minimum lot size for mobile vending units is 12,000 square feet.
 - 40.** Mobile vending units must be located on a site with an existing business.
 - The operator of a mobile food truck/retail truck court must provide trash receptacles and hand-wash stations. A waste disposal plan must be approved with the conditional use request.

- d. Mobile vending operators shall comply with all applicable City, State, and federal requirements, including food safety, business licenses, and noise.
- e. A mobile vending unit and any associated tables, chairs, displays, umbrellas, or the like, do not physically occupy or obstruct access to any parking spaces necessary to meet the minimum parking requirements for any on-premises land uses. A restroom must be accessible to customers when seating is available.

(f) Industrial Uses

(1) Artisan Manufacturing

- a. All activities must be conducted within a completely enclosed building.
- b. Retail sales of goods produced on the property are allowed.
- c. Processes and production that input or create hazardous by-products, as defined by federal regulation, in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts shall obtain a Conditional Use Permit

(2) Light Manufacturing

- a. All activities in this use must be conducted in an enclosed building.
- b. Processes and production that input or create hazardous by-products, as defined by federal regulation, in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts shall obtain a Conditional Use Permit

(3) Heavy Manufacturing

- a. This use may be conducted outside of an enclosed building.
- b. This use must comply with section 38-62 regarding property nuisances.

(4) Storage Units

- a. *Minimum site area.* Minimum site size shall be one acre.
- b. *On-site circulation, drives and driveways.*
 - 1. Each storage unit shall provide a minimum of two exits.
 - 2. All one-way driveways shall provide for one ten-foot-wide parking lane and one 15-foot-wide travel lane. Traffic direction and parking shall be designated by painting or signs.
 - 3. All two-way driveways shall provide for one ten-foot-wide parking lane and two 12-foot-wide travel lanes.
 - 4. The parking lanes may be eliminated when the driveway does not serve storage cubicles.
 - 5. At least one parking space for each ten storage cubicles, equally distributed throughout the storage area, shall be provided, in addition to those in the parking lanes.
 - 6. All driveways and parking, loading and circulation areas shall be paved with concrete, asphalt or asphaltic concrete.

c. *Fencing and screening.*

1. Fencing shall be required around the perimeter of the project at a minimum of six feet in height and constructed of decorative concrete block, as approved by the planning commission.
 2. All outdoor storage shall be limited to recreational vehicles and shall be screened from view from surrounding properties.
- d. *Setbacks.* Any side of a building providing doorways to storage areas shall be set back from the property line with not less than 25-foot side and rear yard setbacks; otherwise, sides of a building not providing doorways to storage areas may have a zero side or rear lot line provided the building is of the same material as the fencing. If not of the same material, the rear yard setback shall be at least 15 feet.
- e. *Trash enclosures.* Masonry trash enclosures shall be installed subject to the approval of the planning commission.
- f. *Prohibited uses.* No auctions, commercial sales, garage sales or similar activities shall be conducted on the premises.

(5) Cannabis manufacturing

- a. Cannabis cultivation is allowed, provided that the establishment complies with all local and state law requirements, including location at least 300 feet from a school or adult or child daycare center.
- b. Site development plan meets minimum code requirements set forth in [Sec. 54-63](#). Site plan and concept approval.
- c. All activities in this use shall be conducted within the fully enclosed portions of a building unless an incidental storage area is approved in the site plan.
- d. An incidental storage area is allowed outside of the fully enclosed portions of a building but shall be screened from view from each property line.
- e. An air filtration plan approved by the Village Building Official and New Mexico Environment Department is required.

(6) Cannabis research laboratory

This use must comply with all local and state laws.

(7) Cannabis testing laboratory

This use must comply with all local and state laws.

(8) Building material sales and storage

All storage, display, and sales areas outside of a fully enclosed building must be screened from any adjacent Residential zone district or lot containing a residential use.

(9) Firewood sales, splitting and storage, wholesale

- a. Materials stored outdoors must be screened from adjacent Residential districts and any

adjacent residence.

- b. This use must comply with Sections 38-31 and 38-62 regarding noise and property nuisances.

(10) Heavy vehicle and equipment sales, rental, service or repair—

- a. All materials, merchandise and equipment shall be stored within an enclosed building.
- b. All processes that generate noise, fumes, or other adverse effects must be conducted within an enclosed building.
- c. Vehicles for sale may be displayed on the property as long as they do not interfere with traffic circulation, but vehicles must be screened from view of adjacent non-industrial zoned properties.
- d. Temporary outdoor storage of vehicles being repaired is allowed. When not within and enclosed building, vehicles being repaired must be screened from view of adjacent non-industrial properties and from any public street.
- e. Wrecker or towing services may be located on the property provided that they meet all state regulations for such services.

(11) Contractor's shop and yard

All outdoor storage of materials and equipment must be located behind the principal building and screened from view of any adjacent non-industrial property and any public street.

(12) Television and radio towers

Television and radio towers shall meet the requirements of other sections of this Article. Exemptions from height limitations shall be as defined in Section 54-49. This use does not include wireless telecommunications towers, which are regulated in Article VII of this Chapter.

(g) Recreation and Entertainment Uses

(1) Neighborhood park

This use must meet local ordinances related to lighting, noise, odors, and other impacts on adjacent properties, including Section 38-31 (noise), Section 38-62 (property nuisance), and section 54-XX (illumination).

(2) Entertainment, recreational, health and exercise facility, outdoor

This use shall be screened from any adjacent residential district or lot containing a residential use by a solid wall, fence or other measures. The screening must be designed to prevent objects from the activity from passing beyond the property line onto any surrounding property not owned by the operator of the use.

- f. This use must meet local ordinances related to lighting, noise, odors, and other impacts on adjacent properties, including section 38-31 (noise), section 38-62 (property nuisance), and section 54-XX (illumination).

(3) Swimming pool, commercial

This use must be conducted within an enclosed building.

- g. Swimming pools must meet all local, state, and federal health and safety standards.

(h) Utilities/Telecommunication

(1) Wireless telecommunications facilities

This use must comply with [Article VII](#) of this Chapter (Wireless Telecommunications Facilities)

(i) Accessory Uses

(1) Accessory dwelling unit

Accessory dwelling units are allowed only in the R-1 district and must receive conditional use approval.

Accessory dwelling units may not be used as short-term rentals.

The owner or long-term resident of the primary structure must live on site.

(2) Caretaker dwelling unit

Caretaker dwelling units are allowed in RV parks as a permanent residence.

(3) Drive-up or drive-through service window

Drive-up or drive-through service windows, stacking lanes, and circulation are prohibited in the established front setback of the principal building, or in an established side yard which abuts a street.

Drive-up or drive-through service windows, stacking lanes, and circulation are treated as component off-street parking for the purposes of screening as described in [Section 54-71](#) to [Section 54-72](#).

Drive-up or drive-through service windows must meet the standards for drive-up window stacking lanes as defined in [Section 54-78](#).

The service lane(s) must be distinctly marked by striping, pavement markings, or traffic islands.

A separate circulation drive must be provided for passage around the outermost service lane.

Screening is not required for walk-up service accessories such as depositories and ATM's.

(4) Home Occupation

Any Home Occupation must meet the standards specified in Division 6. Home Occupations.

(5) Family Child Care Home

An independent childcare provider must be a licensed or registered family child care home with the State of New Mexico and comply with state regulations for family

child care homes.

Only permanent residents of the home may provide care.

Outdoor play areas must be enclosed by a wall, fence or landscape screen at least 6 feet in height.

(6) Electrical Vehicle Charging Station

Level 1 and Level 2 EV charging equipment is allowed outright as an accessory use to any principal use in all districts.

Level 3 charging equipment is allowed as an accessory use in commercial zones with permit approval by the Community Development Department.

- h. The permit process for a Level 3 EV charging station is the same as the conditional use process.
- i. EV charging stations must meet the standards of the National Electric Code.

(7) Accessory structures common to permitted and conditional uses of the zoning district

Accessory structures must meet the use and equipment and setbacks, height, and encroachments standards of this Section (section 54-137 and section 54-140).

(j) Temporary Uses

(1) Outdoor sales

Unless a conditional use is granted by the planning commission for outdoor sales, outdoor sales are restricted as follows:

- j. An outdoor sales special events permit shall be obtained from the Parks and Recreation Department as defined in section 29-69 prior to each event. The planning department may require submittal of a site plan and event schedule with the application. The special event application is reviewed by other Village departments prior to issuing the special use permit and may impose restrictions on the event when issuing the permit.

(2) Circus, carnival, or similar enterprise

This use must obtain a special event permit and described in section 26-69 and section 62-34.

DIVISION 6: PROCEDURES

Sec. 54-56 GENERAL PROCEDURES

(a) General Review Processes

Procedures	Planning Administrator (No Public	Planning Commission (Public	Village Council (Public	Code Citations
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	Hearing)	Hearing)	Hearing)	
Certificate of Zoning Compliance	Decision	Appeal	Appeal	
Subdivision – Minor	Decision	Appeal	Appeal	Article III
Sign Permits	Decision	Appeal	Appeal	Division 8
Home Occupation	Decision	Appeal	Appeal	Division 9
Fences	Decision	Appeal	Appeal	Sec. 54-75
Landscaping	Decision	Appeal	Appeal	Sec. 54-72
Building Permits	Decision	Appeal	Appeal	
Telecommunications	Decision	Appeal	Appeal	Article VII
Variance				Sec. 54-60
Conditional Use Permit	Review	Final (2/3)	Appeal	Sec. 54-61
Planned Unit Development				Sec. 54-62
1. Concept Plan	Review	Recom.	Optional	
2. Development Plan	Review	Recom.	Decision	
3. Final Construction Plan	Decision			
Site Development Plan	Review	Decision	Appeal	Sec. 54-63
Zone Map Amendment	Review	Recom.	Decision	Sec. 54-59
Subdivisions - Major	Review	Recom.	Decision	Article III
Text Amendments	Review	Recom.	Decision	Sec. 54-59
Annexation	Review	Recom.	Decision	Sec. 54-64
Vacation	Review	Recom.	Decision	Sec. 54-65

- (1) Administrative Review and Decision Processes - The following development requests can be administratively reviewed through the building permit process provided that other additional review processes and standards do not apply:
- Sign Permits
 - Certificates of Zoning Compliance
 - Subdivision - Minor
- (2) Review and Decision Processes Requiring a Public Meeting – The following development requests require a public hearing:
- Variance
 - Conditional Use Permit
 - Site Development Plan
 - Planned Unit Development
 - Zone Map Amendment
 - Subdivisions - Major

j. Text Amendments

k. Annexation

(b) Development Application and Submission Requirements

- (1) Authority – The Planning Administrator has the authority ask for application and submission materials, to review plans for completeness, and to assess plans for compliance with relevant code requirements.
- (2) Application and Submission Materials – The applicant shall submit to staff an application and the necessary submission materials as determined relevant by the Planning Administrator.
 - a. The Planning Administrator should provide application checklists with standard application materials required for different development requests.
 - b. Application materials should be necessary and correspond to the level of review. For example: submission materials for a concept plan should allow for a general review of design themes, building massing, and land uses but should not include technical, construction, or engineering drawings if such materials are beyond the scope of review and if such materials are better evaluated through review of the final construction plan or building permit.
 - c. More information may be requested to clarify the application or determine its compliance with the provisions of this chapter or other applicable ordinance, resolution, policy, or guideline.
 - d. Submission materials should not impose an excessive or unnecessary burden on the applicant.

(c) Fees: Application fees related to the cost of processing applications shall be charged in accordance with the fee schedule in Appendix A of this Code.

- (1) Application fees should approximately cover the cost of public services necessary for processing the request.
- (2) Fees are not refundable.

(d) Withdrawal of Application

- (1) A land development application may be withdrawn by the applicant at any time.
- (2) Withdrawal of an application must be made via a written notification to both the Planning Administrator and the Village Clerk.
- (3) Withdrawn applications do not nullify final decisions, nor do they nullify documents which have been filed and recorded by the County Clerk – such as final plats.
- (4) Application fees are not refundable due to the withdrawal of an application.

(e) Public Hearings

- (1) Notice. The Planning Administrator shall issue a notice of the time and place for a scheduled public hearing. The notice shall identify the nature of the application or proposed action and list contact information where persons can obtain additional details or view the file. A record of all notices issued shall be maintained in the case file.
- (2) Notice of a public hearing shall occur as follows:
 - a. Notice shall be given at least 15 days in advance of the scheduled meeting through the mail or, if requested and such contact information is available, via fax or email to the following:
 1. Property owners within 200 feet of the subject property. Public rights-of-way adjacent to the subject property shall be considered part of the application or proposed action area for purposes of determining which properties are within the notice area.
 2. The applicant, the applicant's agent, and the property owners if other than the applicant.
 3. Individuals, newspapers of general circulation, and broadcast stations licensed by the federal communications commission who have filed a written request to receive notice.
 - b. Notice shall be posted on the village web site at least 15 days prior to the scheduled meeting.
 - c. Notice shall be posted on the subject property at least 15 days prior to the scheduled meeting.
 - d. Notice shall also be published in a local newspaper of general circulation at least 15 days prior to the scheduled meeting for the following types of applications:
 4. Proposed amendments to the Village Municipal Code related to land use.
 5. Applications or proposed actions involving at least five acres.
 6. Applications or proposed actions involving property along arterial or collector streets within the village.
 7. Any application requiring a public hearing before the Planning Commission.
 8. Any other action that the Planning Administrator deems appropriate for publication due to its impact on the community at large.

(f) Planning Commission Hearing procedures.

- (1) The Planning Commission shall hold public hearings to consider applications as required under this article.
- (2) Review Packet. Prior to the public hearing, the Planning Administrator shall assemble a packet with the submitted proposal and any supplementary materials available such as a staff report, review by other agencies, or comments made by the public. The packet shall be available for

review by both the Planning Commission and the public. The review packet shall be submitted to the Planning Commission and shall be made a part of the hearing record.

- (3)
- (4) Parties to hearing. A written statement giving the name and address of the person making the appearance, signed by him or his agent and filed with the Planning Administrator, constitutes appearance of record. The parties to a hearing shall be any of the following persons who entered an appearance of record either prior to commencement of the hearing or when permitted by the Planning Commission during the conduct of the hearing:
- (5) Persons entitled to notice under subsections (4)a., b., c. and d.(check reference) of this subsection.
- (6) The representatives of any department or agency of the village or another unit of government.
- (7) A person who demonstrates interest in the subject matter of the hearing to the Planning Commission.
- (8) Testimony. Each party or witness shall be placed under oath at the time of speaking and shall be offered reasonable opportunity to present evidence and argument on all relevant issues. The Planning Commission may impose reasonable limitation on the number of witnesses heard and, on the nature, and length of testimony and questioning. The Planning Commission may call witnesses and introduce papers on its own volition.
- (9) Records. The Planning Administrator or Village Clerk shall make a full record of the hearing by sound recording. Summary minutes shall be kept of all public hearings, and they shall be kept available for public inspection. Any person shall have the opportunity to listen to, copy or transcribe the sound recording of the public hearing at any reasonable time at the office of the Planning Administrator or the Village Clerk.
- (10) Continuation of hearing. An advertised hearing may be continued to a time and place announced at the hearing without re-advertising.
- (11) Prohibited acts by commission. Prior to Planning Commission action, the Commission shall neither:
- (12) Communicate directly or indirectly with any party or his representative in connection with the merits of an issue involved;
- (13) Use or rely upon communication, reports, staff review or other materials prepared in connection with the particular case unless made part of the record; nor
- (14) Inspect the site with any party or his representative unless all parties are given an opportunity to be present.
- (15) Decision by commission. The Planning Commission shall act on an application on conclusion of the public hearing or at its next regular meeting following the hearing. The commission shall state for the record the key findings of fact on which the commission decision is based.
- (16) Notification of decision. When any application is approved, approved with conditions, or denied, written notification of the Planning Commission action, listing any conditions

imposed, shall be sent within two days of the commission action to the applicant and to any other party who has requested to be so informed.

(17) Appeals. Any decision by the Planning Commission is final unless appeal is initiated to the Village Council as prescribed by [section 54-62 \(check reference\)](#).

(18) Building Permits. A building permit dependent on a case shall not be issued until an appeal is decided or the time for filing an appeal has expired without an appeal being filed. However, a building permit may be issued before the appeal period has expired if the applicant agrees in writing to surrender the building permit and cease all work if an appeal is duly filed.

(Code 1985, § 10-2-1; Ord. No. 96-01, 1-9-96; Ord. No. 2008-11, 10-14-08; Ord. No. 2019-01, 1-8-19; Ord. No. 2019-02, 3-12-19)

Cross reference(s)—Boards, commissions and committees, § 2-81Cross reference(s)— et seq.; Planning Commission, § 2-161Cross reference(s)— et seq.

(g) **Appeals**

- (1) Appeal Period. A request for an appeal shall be filed within 15 days of the decision which is being appealed unless otherwise noted and receipt of the request will be communicated to the appellant and, if different, to the appellee.
- (2) Applicability. Any aggrieved person or any officer, department, board or bureau of the Village affected by a decision of an administrative officer, commission, or committee which erroneously enforces this article or any ordinance adopted pursuant thereto may request an appeal hearing per [NM Stat § 3-21-8 \(2021\)](#).
 - a. Advisory opinions, recommendations, and informal interpretations of code are not appealable actions.
 - b. Decisions which are not alleged to be an erroneous enforcement of this article or requests for a variance from or change to the applicable regulations are not valid appeals.
 - c. Any sign permit application which is rejected, for any reason, by the community development department may be appealed to the planning commission. The applicant shall submit, in writing, a request to be placed on the planning commission agenda within five working days of the rejection. The appeal will be scheduled for the next planning commission meeting, provided the planning commission agenda deadline has not passed, in which event the matter will be scheduled for the next regularly scheduled planning commission meeting.
- (3) Submission. A request for an appeal shall be on a form prescribed by the Planning Administrator, shall state the name, contact information, and address of the applicant, and shall specify how the decision being appealed is based on an error related to the enforcement of this article or of any ordinance adopted pursuant thereto.

Commented [CG6]: Existing Code Regarding Administrative Appeal Processes:

Appeal Staff Interpretations
Sec 54-35 (d)

Interpretation of meaning. The planning administrator or his designee shall interpret the meaning of the provisions of this article. Disagreement with an interpretation may be appealed to the planning commission and then to the council.

Sec. 54-38. - Violations; penalties; additional remedies.

(b)
The code enforcement officer shall order, in writing, the remedying of any violation. Such order shall state the nature of the violation, the code provision violated, and the time by which the violation must be corrected. After such order has been served, no work shall proceed on any structure or tract of land covered by such an order except to correct such violation or to comply with the order.

(c)
Decisions of the planning administrator may be *appealed to the planning commission and then to the council in accordance with [section 54-62](#).*

Standards for Fire Safety and Fire Handling:

Sec. 42-74. - *Appeals.*

Any person who is adversely affected by a notice as provided herein shall have the right to *appeal to the planning commission, the governing body and district court as provided in [chapter 54](#) of this Code.*

Sellers of Firewood:

Sec. 26-78. - *Sellers of firewood. (c)*

Any person violating the provisions of this section shall be punished in accordance with the provisions of [section 1-6](#) of this Code and, further, may have this license revoked by the clerk, subject to appeal to the council pursuant to the appellate provisions of [section 54-62](#).

Commented [CG7R6]: PC and VC follow same appeal process

Commented [CG8]: Existing Language (54-188) - do we want to keep this? This creates an alternate rationale and process specifically for sign permits

(4) Stay of proceedings. Submission of an appeal request shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, committee or board from whom the appeal is taken certifies that, by reason of facts stated in the certificate, a stay would cause imminent peril to life and property. Upon certification, the proceedings shall not be stayed other than by a restraining order granted by the district court on notice to the village clerk with due cause shown.

(5) Determination of Appeal Validity and Notice.

- a. Within 5 working days of receipt of an appeal request, the Village Attorney or Planning Administrator shall determine and communicate to the applicant whether the submission is a valid request for an appeal based on the applicability and submission requirements or if more information is needed. Applicants will have 5 working days to resubmit.
- b. Notification of a valid appeal request shall be sent by the Planning Administrator to the the appellant, the appellee, a representative of the opponents if any are known, and to any other parties who have requested to be so informed.
- c. Notification of an invalid request for an appeal shall be sent by the Planning Administrator to the appellant along with a rationale of why the request for an appeal was invalid.

Commented [CG9]: Already review, can ask for additional information.

(6) Scheduling of an Appeal. For a valid appeal request, the Planning Administrator shall schedule a public hearing with either the Planning Commission or the Village Council as defined by applicable processes.

(7) Notice of Public Hearing.

- a. Notice of a public hearing shall be given according to applicable regulations ([Sec. 54-56\(g\)](#)).
- b. The Planning Administrator shall give written notice of the date, time and place of such hearing to the applicant, the appellant, the appellee, a representative of the opponents if any are known, any persons who appeared before the Planning Commission during its consideration of the matter, and any other parties who have requested to be so informed at least 15 days prior to the date of the hearing. In addition, if the appeal relates to a specific site, a similar notice shall be sent to each owner of property situated within the required notification area of the property to which the appeal relates. The appellant shall furnish an abstractor's certified property certificate showing the property ownership within the required notification area of the property. The Planning Administrator shall make a copy of the notice and a list of the owners and addresses to which the notice was sent as a part of the record of proceedings. The failure to receive notice by individual property owners shall not invalidate the proceedings.

Commented [CG10]: Is this necessary?

(8) If requested, the Planning Administrator may provide notice by fax or email, if the Planning Administrator has facsimile numbers or email addresses available, in lieu of mailed notice. Faxed or emailed notice shall be sent at least ten days prior to the meeting at which the case is to be heard. Packet of Materials for Review. Prior to the public hearing the Planning Administrator shall submit a packet containing all the documents constituting the record of the case appealed,

evidence provided by the appellant supporting the appeal, comments from other interested parties, and such further facts as may be pertinent or material to show the grounds of the decision appealed.

(9) Review Process. The Planning Commission or Village Council shall hear the appeal and render a decision within 45 days.

- a. The reviewing body shall consider oral and written testimony from the appellant, the appellant's agent or attorney, village staff members, and other interested parties. All such oral testimony, other than attorneys' statements and questions, shall be in accordance with the provisions of section 54-61(f)(8), relating to testimony and evidence before the Planning Commission. The reviewing body shall also study the record of the action on the appeal.
- b. If postponed, the reviewing body shall make a decision on the appeal at its next regularly scheduled meeting.
- c. The reviewing body, by a two-thirds vote of all of its members, may:
 1. Reverse any order, requirement, decision or determination;
 2. Decide in favor of the appellant; or
 3. Make any change in any order, requirement, decision or determination.
- d. If the reviewing body fails to so decide by a two-thirds vote of all of its members, or if it decides by a simple majority of those members present to uphold the decision, then the decision shall stand.
- e. Notice of decision. The Planning Commission or Village Council shall issue a written notice of its decision to all concerned parties and to the Village Clerk. The notice shall state the facts of the matter, the reasons for its decision, and any conditions applied to the decision.
- f. Judicial review. The exclusive remedy for parties dissatisfied with the action of the Village Council shall be the filing of a petition for review in the district court, according to state law.

(Code 1985, § 10-2-2; Ord. No. 96-01, 1-9-96; Ord. No. 98-17, § 2, 11-10-98; Ord. No. 2008-11, 10-14-08)

(b) Reconsideration of applications.

- (1) An application which is substantially the same to one which has been rejected by the Planning Commission or Village Council, shall not be accepted within 12 months of the final decision.

(c) Approval Expirations

(1) Expiration due to inactivity.

- a. Unless otherwise noted, if work has not started, or if a land development request has not been filed which amends or further refines the approval within one year of issuance, the

land development approval shall expire and shall be considered cancelled by the Planning Administrator.

(2) Expiration due to timeliness.

- a. If the work described in a permit or land development request has not been substantially completed within two years of the date of issuance thereof, or within the time limit established by the Planning Commission or Village Council, the permit shall expire and shall be considered cancelled by the Planning Administrator. Applicants without a specific time limit established by the Planning Commission of Village Council may request up to three, one-year extensions to the Planning Administrator.

Commented [CG11]: Alternatively: the Planning Administrator shall send written notification to the permit holder that the permit will expire within 30 days unless an extension of the permit is requested.

(d) Administrative Amendments and Minor Deviations

(1) Administrative amendments. The Planning Administrator may approve minor amendments to existing development approvals that would otherwise require review by applicable approval bodies provided such changes do not exceed the following limitations:

- a. Administrative amendments shall be consistent with or neutral in regards to prior actions by the Planning Commission or Village Council, if applicable. No administrative amendments shall be approved would reduce the effect of any existing conditions of approval.
- b. Administrative amendments can be combined with a minor deviation but cannot be used for a change that would require a variance to applicable regulations.
- c. Administrative amendments shall not increase the square footage or building footprint of a proposed development by more than 25% as calculated from the net increase of an existing approval, not the total existing or proposed building area.
- d. Administrative amendments shall not increase the height of a building or structure by more than 12 inches or 10% of the total approved height, whichever is greater.
- e. Administrative amendments shall not result in changes which are expected to be controversial or which contradict negotiations, agreements, or approvals reviewed and decided upon by the Planning Commission.
- f. Administrative amendments should not result in noticeable and relevant detrimental effects to surrounding property owners, residents, or the Village.

(2) Minor Deviations. The Planning Administrator may approve minor deviations to applicable regulations that would otherwise require a variance provided such changes comply with the limitations of administrative amendments and, additionally, do not exceed the following limitations:

- a. Minor deviations shall be necessary to overcome a hardship, meet the overall intentions of the code, or to improve compliance with planning goals and intentions adopted by the Village of Ruidoso.
- b. Minor deviations shall not exceed 10% of any dimensional requirements.

- c. Minor deviations shall not result in the need for a new traffic study.

(e) Enforcement

(1) Applicability

- a. No person shall locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or structure, or use any land, in violation of this article.
- b. This section describes enforcement actions related to Village land use regulations imposed in this article and to conditions of approval which are directly applied through Village land development processes.
- c. Private covenants shall not be enforced by the Village.

- (2) Complaints. When a violation of this article is alleged to have occurred, any person may file a complaint, which shall be in writing. The complaint, stating fully the causes and basis thereof, shall be filed with the code enforcement officer or the Planning Administrator who shall record the complaint properly, investigate in a timely manner and take action as provided by this article.

- (3) Notice of violation. If a code enforcement officer or the Planning Administrator shall find that any of the provisions of this article are being violated, they shall:

- a. Notify, in writing, the owner or tenant of the property, indicating the nature of the violation, the code provision violated, the time by which the violation must be corrected, and ordering the action necessary to correct it.
- b. The notification shall order the discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; or discontinuance of any illegal work being done; or shall take any other action authorized by this article to ensure compliance with or to prevent violations of its provisions.

- (4) After a notice of violation has been served, no work shall be processed on any structure or tract of land covered by such the notice except to correct such violation or to comply with the order.

- (5) Remedies for violations. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used, in violation of this article or any of the regulations promulgated thereunder, the Village Council, Village Attorney, administrative official, or any other proper village official may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

(6) Penalties

- a. Any and all persons who shall violate any of the provisions of this article or fail to comply therewith, or who shall violate or fail to comply with any lawful order or regulation made under this article, shall severally, for each and every such violation and noncompliance respectively, be punishable as provided in section 1-6, to which penalty may be added the costs of the action at the discretion of the court.
 - b. The imposition of a penalty shall not excuse the violation or permit the continuation thereof, and all such persons shall be required to correct or remedy such violations and defects within a reasonable time.
 - c. Each day that the prohibited condition is not corrected or remedied shall constitute a separate offense, and the court shall impose a fine on a per diem basis for each day that the violation is maintained.
- (7) In addition to or in lieu of the procedures outlined in this section, this article shall be enforceable in a court of proper jurisdiction, and any or all appropriate remedies at law or in equity shall be available for the enforcement thereof.
- (8) This article shall not be construed to hold the Village, the Planning Administrator, or any other village official responsible for any damage to persons or property by reason of any inspection or reinspection authorized in this article or the failure to so inspect or reinspect or by reason of the issuance of a building permit as required in this article.

Sec. 54-57 ADMINISTRATIVE

- (a) General Administrative Processes
- (f) The Planning Administrator and other City Staff shall review various administrative processes per ###Reference-Module 4-Chapter 54 Division 5###. This includes but is not limited to: signs, minor subdivisions, home occupations, fences, walls, landscaping, telecommunications, terrain, flood hazards, and other building permits.Certificate of Zoning Compliance
 - (1) A certificate of zoning compliance can be issued upon applying for a business registration.
 - (2) A certificate of zoning compliance shall confirm that the requested use is either permitted, subject to a conditional use, legally nonconforming, or not permitted in the applicable zone.

Sec. 54-58 ZONE MAP AMENDMENTS (REZONING)

- (a) Purpose
 - (1) The purpose of a zone map amendment is to change the zoning of an area to meet the land use needs of the Village in conformance with the Village comprehensive plan and in accordance with state statutes.
 - (2) Rezoning applications may be initiated by the Village Council, the Planning Commission, the Planning Administrator, the property owner, or by an authorized agent representing one of the above entities.
- (b) Criteria for Decision
 - (1) An application for a zone map amendment will be evaluated based on the following criteria:
 - a. The existing zoning district is inappropriate for one or more of the following reasons:
 - 1. It was established in error or is the result of a mistake;
 - 2. Surrounding conditions have changed; or
 - 3. The proposed zoning is more advantageous to the community as measured by compliance or fulfillment with the Comprehensive Plan and other, applicable long-range planning priorities.
 - b. A zone map amendment which would result in “spot zoning” as defined per this Chapter shall not be approved.
 - c. Whether necessary infrastructure and public services can be feasibly provided to the property.
- (c) Process

- (1) Application. An application for rezoning shall be made on a form provided by the Planning Administrator. The application shall indicate the legal description of the property, the present zoning classification, and the recommended use of the property by the Village comprehensive plan. The applicant shall present evidence to the Planning Administrator of ownership or type of controlling interest in the property (e.g., option to purchase).
- (2) Administrative Review & Staff Recommendation. The Planning Administrator will provide the Planning Commission with a staff report including an analysis of the approval criteria and a recommended action to aid the Planning Commission in making a decision.
- (3) Planning Commission Review. A rezone not initiated by the Planning Commission shall be referred to the Planning Commission for study and public hearing. In its deliberations on the matter, the commission shall consider oral or written statements from the applicant, the public, Village staff and its own members. The application may not be postponed more than two meetings in succession. The Planning Commission shall notify the council, in writing, of its recommendation.
- (4) Village Council Review. Rezone requests will be reviewed by the Village Council in accordance with the applicable public hearing procedures unless withdrawn by the applicant. During the scheduled public hearing on the matter, the council may approve or disapprove the request for rezoning by ordinance, or postpone the request. The application may not be postponed more than two meetings. If approved, the Planning Administrator shall revise the official zoning map accordingly.

(Code 1985, § 10-2-5; Ord. No. 2008-11, 10-14-08)

Sec. 54-59 TEXT AMENDMENTS TO THE ZONING CODE (CODE AMENDMENTS)

(a) Purpose.

- (1) The purpose of a text amendment is to change the details of this article to better regulate land use and zoning regulations. An amendment to this article may involve changes in its text and wording, including but not limited to changes in the regulations regarding uses, setbacks, heights, lot areas, definitions, administration and/or procedures. Code amendments do not, however, include the rezoning of property.
- (2) Text amendments may be initiated by the Village Council, the Planning Commission, the Planning Administrator, or by petition of a person whose property would be affected by the amendment.

(b) Criteria for Decision

- (1) A text amendment application will be evaluated based on the following criteria:
 - a. Substantial compliance with, or satisfaction of, community priorities related to the Comprehensive Plan and other applicable long-range plans.
 - b. The proposed change will not result in land use inconsistent with the purpose of the district.
 - c. The proposed change will clarify existing language, remove redundant or inconsistent language, or simplify the understanding and implementation of the code.
 - d. The proposed amendment promotes the public health, safety, and welfare of existing and future community residents.

(c) Process

- (1) **Application.** If an individual or other party initiates a request for an amendment to this article, the request must be made on a form provided by the Planning Administrator. The request must state the exact section of this article proposed for amendment, the proposed substitute wording, and the reasons for requesting the amendment. Graphic material should also be submitted, as it will assist in understanding the benefits of the amendment. The submittal must be made to the Planning Administrator and the processing fee paid at least 30 days prior to the date of the public hearing by the Planning Commission. An amendment to this section of the code brought forth by the Village Council shall be done in accordance with subsection 54-64(f).
- (2) **Administrative Review.** The Planning Administrator will provide the Planning Commission with a staff report including an analysis of the approval criteria and a recommended action to aid the Planning Commission in making a decision.
- (3) **Planning Commission Review.** An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and public hearing. In its deliberations on the

matter, the commission shall consider oral or written statements from the petitioner, the public, Village staff and its own members. The commission may approve, disapprove or postpone an amendment application. The commission shall notify the council, in writing, of its recommendation.

- (4) Village Council Review. The Council may, at its next regular meeting after receipt of the report and recommendation of the Planning Commission, set a date for a public hearing on the amendment request. In its deliberations on the matter, the council shall consider oral or written statements from the petitioner, the public, Village staff, the Planning Commission and its own members. The council may approve or disapprove the request by ordinance or postpone the request. A vote of two-thirds of all members of the council shall be required to reverse the recommendation of the Planning Commission.
- (5) Hearing and decision by the council of council initiated amendments. The Village Council may, from time to time, discuss and amend the planning code. If the matter has been acted on by the Village Council within the last 18 months, the council may choose to amend the ordinance through its own public hearing process, without changes being considered in public hearings of the Planning Commission. Upon approval of the amendment the council will notify the Planning Commission of the changes.

(Code 1985, § 10-2-4; Ord. No. 98-10, 5-12-98)

Sec. 54-60 VARIANCES

(d) Purpose.

- (1) The purpose of a variance is to vary or adjust the strict application of applicable requirements within this article when the strict application of the code cannot be accomplished due to unique characteristics affecting the land or improvements, or when the strict application of the code would result in a practical difficulty or unnecessary hardship that would deprive the owner of reasonable use of the property.
- (2) Variances should normally be limited to regulations pertaining to height or width of structures or the size of yard and open spaces where a departure from the literal interpretation of this article will not be contrary to the public interest or establish a precedent that would undermine the purpose and intent of this article as described in section 54-32.
- (3) Use variances shall not be permitted.

(e) Criteria for Decision

- (1) Variance applications will be granted if the following criteria are satisfied:

- a. There are special circumstances applicable to a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic return on the property, or practical difficulties result from strict compliance with the minimum standards.
- b. The Variance will not be materially contrary to the public safety, health, or welfare.
- c. The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.
- d. The Variance will not materially undermine the intent and purpose of this ordinance or the applicable zone district.
- e. The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.

Commented [CG12]: Consider using language in the beginning of Chapter 54 - has language that might be used in the criteria.

(f) Process

- (1) Application. A variance application shall be made on a form provided by the Planning Administrator. The application shall indicate the legal description of the property, the present zoning, and document rationale for why the application meets the above criteria.

(2) Administrative Review. The Planning Administrator will provide the Planning Commission with a staff report including an analysis of the approval criteria and a recommended action to aid the Planning Commission in making a decision.

(3) Planning Commission Review

- a. The Planning Commission shall make a decision based on whether the approval criteria have been met. The commission shall consider oral or written statements from the applicant, the public, Village staff and its own members.
- b. The Planning Commission may impose such additional conditions and safeguards as it deems necessary to protect the health, safety and welfare of the community.
- c. A variance shall not be approved except upon the affirmative vote of two-thirds of all the members of the Planning Commission present.
- d. The application may not be postponed more than two meetings in succession. The Planning Commission shall notify the council, in writing, of its recommendation.
- e. Appeals to Planning Commission determinations can be filed per #####code citation#####

(g) Blanket variance for existing structures.

- (1) Any structures, buildings or improvements which otherwise lawfully existed prior to June 28, 1988, are hereby automatically issued a blanket variance from the standard setback requirements of their zoning district unless the existing setbacks are three feet or less.
- (2) No fee or application shall be necessary for eligibility for a blanket variance. However, eligibility for a blanket variance for structures existing on a lot prior to June 28, 1988, does not in any way preclude or exempt any form of new construction proposed on the same lot after June 28, 1988, from the requirements and restrictions set out in this section.
- (3) Substandard lots are eligible for reductions in accordance with subsection 54-143(j).

(Code 1985, § 10-2-6; Ord. No. 2008-11, 10-14-08; Ord. No. 2019-02 , 3-12-19)

Sec. 54-61 CONDITIONAL USE PERMITS

(a) Purpose

- (1) The conditional use process is intended to be a way to evaluate and permit unique, unintended, potentially detrimental, or highly intensive land use types. The incorporation of a public hearing process and a deliberation of the request by the Planning Commission also allows for the identification, negotiation, and potential mitigation of negative impacts. In reviewing a conditional use proposal, the Planning Commission should weigh a comprehensive variety of potential positive and negative impacts resulting from an approval or denial.

(b) Applicability

- (1) Generally. Uses defined in ##### (section 54-91(c)) may be granted a conditional use permit.
 - a. The permit may be issued for a specified period of time, with automatic cancellation at the end of that time unless it is renewed, or conditions may be applied to the issuance of the permit and periodic review may be required.
 - b. The permit shall be granted for a particular use and not for a particular person.

Commented [CG13]: Review based on original administrative section (beg. Ch 54)

(2) Legally Nonconforming Uses

- a. Reinstatement of legally nonconforming uses. Legally nonconforming uses, buildings, or structures which have been discontinued for a period that exceeds one year or which are otherwise prevented by this article from reinstating a verified, legal nonconformity shall be required to apply for and receive a conditional use permit.
- b. Legally nonconforming uses as defined in (###code citation###) are eligible to change their status from a legal nonconforming use into a conditional use by successfully proceeding through this section and being awarded a conditional use permit.

(c) Criteria for Review and Approval

- (1) An application for a Conditional Use Permit shall be approved if it meets the following criteria:
 - a. The use is listed in this article as a conditional use in the particular district in which it is proposed to be located or is a legally nonconforming use as defined by this article.
 - b. The requested use complies with the adopted community priorities related to the Comprehensive Plan and other applicable long-range plans.
 - c. The requested use will not create significant adverse impacts to the surrounding neighborhood, including health, safety and general welfare, existing and anticipated traffic conditions, and the impact upon the natural environment.

(d) Process

- (1) Application. An application for a conditional use permit shall include information as identified by the Planning Administrator necessary to evaluate the request.
- (2) Administrative Review. The Planning Administrator will provide the Planning Commission with a staff report including an analysis of the administrative review criteria and a recommended action to aid the Planning Commission in making a decision.
- (3) Planning Commission Review and Decision
 - a. The Planning Commission shall use the approval criteria to evaluate and debate the request.
 - b. Approval of conditional use permits shall require a two-thirds vote of the members of the Planning Commission present.
 - c. The Planning Commission may grant the application by motion, imposing such conditions and safeguards as it deems necessary, or it may deny the application.
 - d. If approved, the commission shall be required to make findings supporting its decision. If an application is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval exist.
 - e. No application for a conditional use permit which has been denied wholly or in part shall be resubmitted for a period of six months from the date of the order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission.

- (e) Notice of decision; contents of permit. The applicant shall be notified in writing of the action taken by the Planning Commission. If the application has been granted, the permit shall be issued upon the signature of the chairman of the Planning Commission and the Planning Administrator, and any conditions, automatic termination date, or period of review shall be stated on the permit.
- (f) Revocation. If the conditions and safeguards set by the Planning Commission are violated, the conditional use permit, after due process, may be revoked by a majority vote of the Planning Commission. Appeals may be made in accordance with section 54-62.

(Code 1985, § 10-2-8; Ord. No. 99-12, 7-27-99; Ord. No. 2008-11, 10-14-08)

Sec. 54-62 PLANNED UNIT DEVELOPMENT

(a) Purpose.

- (1) The Purpose of a planned unit development is to provide additional review steps for larger or more intensive projects expected to have an impact on the Village as a whole. The process also allows more appropriate development, design flexibility, encourages infill on vacant or underutilized land.

(b) Applicability.

- (1) Any development proposal which meets the requirements of section 54-XXXXX106, pertaining to planned unit development, shall be reviewed according to the provisions of this section.

(c) Criteria

- (1) Administrative Review Criteria – Staff will assess and recommend approval if the application either demonstrates compliance with applicable code requirements or provides a reasonable expectation that all applicable code requirements can be satisfied in the building permit and technical review processes. Such review shall include but is not limited to:
 - a. Relationship of the site plan elements to conditions both on and off the property.
 - b. Conformance to this article.
 - c. The impact of the plan on the existing and anticipated traffic and parking conditions.
 - d. The adequacy of the plan with respect to land use.
 - e. Pedestrian and vehicular ingress and egress.
 - f. Environmental and safety standards.
 - g. The presence or requirement of easements.
- (2) Planning Commission & Village Council Criteria – The Planning Commission and Village Council shall consider and weigh the following criteria in order to make a balanced and equitable decision:
 - a. Substantial compliance with the Comprehensive Plan and other applicable and identified long-range planning priorities such as those related to environmental protection, economic development, affordable housing, or public safety.
 - b. Sufficient compliance or a reasonable expectation that major code requirements can be satisfied in the building permit and technical review processes.
 - c. The effect of the proposal on the health, safety, and welfare of surrounding neighbors and users.
 - d. The effect of the proposal on the health, safety, and welfare of the applicant.

- e. The effect of the proposal on the health, safety, and welfare of Village residents.
- f. Impacts to particularly vulnerable or sensitive individuals or groups such as senior households, low-income households, and small businesses.

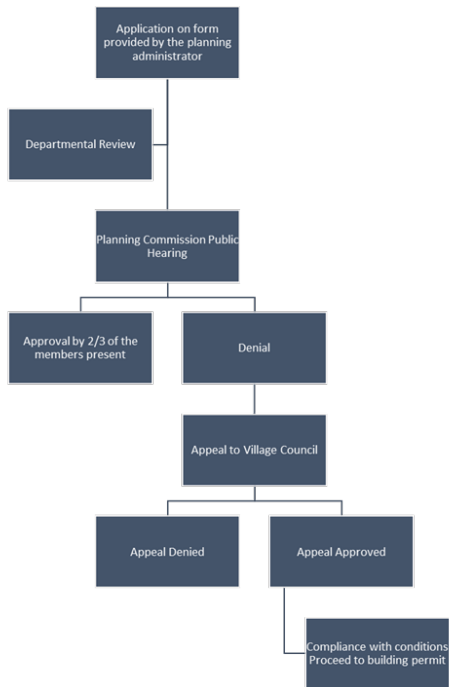
(d) Process

- (1) Pre-Application. Prior to submitting an application for a planned unit development approval, the applicant should meet with appropriate Village staff to discuss the development concept, the submittal requirements, and the review and approval process.
- (2) Application. An application for a planned unit development shall include information as identified by the Planning Administrator necessary to evaluate the request. Concept plan exhibits shall accompany the application. The concept plan shall be submitted at least ten days prior to a regularly scheduled Planning Commission meeting.
- (3) Concept plan. The concept plan stage of the process is intended to be a review of the conceptual, or preliminary project elements. This will typically include a site plan sketch, concept renderings illustrating potential design themes, approximate building massing, and/or approximate land use mixtures and intensities. The concept plan will typically not include technical design details.
 - a. Administrative Review. The Planning Administrator will provide the Planning Commission with a staff report including an analysis of basic administrative review criteria and a recommended action to aid the Planning Commission in making a decision.
 - b. Planning Commission review. The Planning Commission shall review the concept plan and shall determine whether the conceptual plan appears to be in conformance with approval criteria. The Planning Commission may instruct the applicant regarding features or design elements to be included in the preliminary development plan and what exceptions or variances to this article may apply.
 - c. Village Council Review. It is not required that the Village Council review the concept plan portion of a planned unit development, however, the applicant may request a concept plan review by the council following Planning Commission review and comment. The scope of review and comment by the council shall be the same as that of the Planning Commission.
- (4) Development Plan. The development plan is intended to be a review of general proposal details, similar in scope to the Site Development Plan Process.
 - a. Administrative Review. The Planning Administrator will provide the Planning Commission and Village Council with a staff report including an analysis of basic administrative review criteria and a recommended action to aid a decision. The Planning Administrator will assess and recommend approval if the application either demonstrates compliance with applicable code requirements or provides a reasonable expectation that all applicable code requirements can be satisfied in the final construction plan, during the building permit process, or through additional technical review processes.

- b. Planning Commission Review. The Planning Commission shall review the development plan and shall make a recommendation to the Village Council based on the approval criteria. The planning commission may instruct the applicant regarding features or design elements to be included in the development plan.
 - c. Village Council Review. Planned Unit Development requests will be reviewed by the Village Council in accordance with public hearing procedures unless withdrawn by the applicant. The Village Council shall review the recommendations from staff, from the Planning Commission, from the public, and from the applicant and make a final decision based on the approval criteria. The Village Council may instruct the applicant regarding features or design elements to be included in the final plan.
- (5) Final Construction Plan. The final construction plan is intended to be a review and approval by staff to ensure that the applicant has incorporated all technical requirements and any conditions or guidance requested by the Village Council. A final construction plan is not intended to be as comprehensive as a building permit but may include technical information or special considerations required to evaluate and work out necessary details prior to submitting for a building permit.

(Code 1985, § 10-2-9; Ord. No. 2008-11, 10-14-08)

Sec. 54-63 SITE DEVELOPMENT PLAN



(a) Purpose

(1) The purpose of a site development plan is to evaluate moderate and higher-intensity development proposals which will likely impact the neighborhood or areas of the Village. The review of a site development plan by the Planning Commission should assess and mitigate demonstrable adverse impacts of the development and weigh a comprehensive variety of potential positive and negative impacts resulting from an approval or denial. Approved proposals should, on the whole, contribute to - rather than detract from - the broader goals, policies, and objectives established by the Village.

(b) Applicability

(1) The following developments shall require site development plan approval before proceeding to building permit review:

a. Multi-family residential development which would result in more than five (5) dwelling units.

- b. New commercial, industrial, or manufacturing proposals of any size including hotels, motels, campgrounds, and RV parks.
- c. Additions to existing Commercial, Industrial, or Manufacturing uses of more than ten-thousand (10,000) square feet.

(c) Criteria For Review and Approval

- (1) Administrative Review Criteria – In reviewing a site development plan, staff will assess and recommend approval if the application either demonstrates compliance with applicable code requirements or provides a reasonable expectation that all applicable code requirements can be satisfied in the building permit and technical review processes. Such review shall include but is not limited to:
- a. Relationship of the site plan elements to conditions both on and off the property.
 - b. Conformance to this article.
 - c. The impact of the plan on the existing and anticipated traffic and parking conditions.

d. The adequacy of the plan with respect to land use.

e. Pedestrian and vehicular ingress and egress.

f. Environmental and safety standards.

g. The presence or requirement of easements.

(2) Planning Commission Criteria & Considerations – In formulating a decision for a site development plan, the Planning Commission shall consider and weigh the following criteria and considerations in order to make a balanced and equitable decision:

a. Substantial compliance with the Comprehensive Plan and other applicable and identified long-range planning priorities such as those related to environmental protection, economic development, affordable housing, or public safety.

b. Sufficient compliance or a reasonable expectation that major code requirements can be satisfied in the building permit and technical review processes.

c. The effect of the proposal on the health, safety, and welfare of surrounding neighbors and users.

d. The effect of the proposal on the health, safety, and welfare of the applicant.

e. The effect of the proposal on the health, safety, and welfare of Village residents.

f. Impacts to particularly vulnerable or sensitive individuals or groups such as senior households, low-income households, and small businesses.

(d) Process

(1) Application: An application for a site development plan shall include information as identified by the Planning Administrator necessary to evaluate the request. The Planning Administrator should have an application checklist with informational items and submission requirements available to the public.

(2) Administrative Review & Staff Recommendation

a. The applicant(s) and the Planning Administrator shall discuss areas of the code that are applicable to the proposed plan. The Planning Administrator shall provide in writing to the applicant a list of those items required under subsection 54-67(c) of this Code and other information that would help the Planning Commission make an accurate decision.

b. The Planning Administrator will provide the Planning Commission with a staff report including an analysis of the administrative review criteria and a recommended action to aid the Planning Commission in making a decision.

(3) Planning Commission Review and Determination

a. The Planning Commission shall consider oral or written statements from the applicant, the public, village staff members or its own members. It may question the applicant and

approve, deny or postpone the development proposal. The application may not be postponed for more than two regular meetings of the Planning Commission.

- b. Site development plan applications may be approved if the Planning Commission determines by motion that the proposed plan will not be overall detrimental to the health, safety or welfare of the community as evaluated by the applicable criteria and considerations.
 - c. Site development plan applications may be denied if the Planning Commission determines by motion that the conditions required for approval do not exist.
 - d. Appeals to Planning Commission determinations can be filed per #####code citation#####
- (4) Building permit applications pertaining to approved site development plans may be submitted and reviewed but shall not be issued prior to the end of the appeal period or if the determination by the Planning Commission is being appealed.

Commented [CG14]: Insert final code citation

Sec. 54-64 ANNEXATION

- (a) Policy. All annexation to the village shall be in accord with the annexation statement of policy 85-2 adopted by the Village Council on October 29, 1985.
- (1) Generally, the annexation of land shall not impose an economic burden on the village or result in a indirect subsidy of services by the village. Evidence shall be provided by the petitioner that existing infrastructure, including but not limited to streets, sewer and water lines, public facilities including fire stations and parks, and operating services such as fire, police and garbage collection, can accommodate potential development within the area to be annexed.
- (2) Annexation agreements shall be entered into between the village and the petitioner requesting annexation to cover extension of streets, utilities, facilities and operation services for the area proposed for annexation.
- a. Agreements shall include a provision by the petitioner of all improvements within the annexation area required to serve such area, including streets, water and sewer and public facilities; and a provision by the petitioner of water rights or arrangement for payment for water rights to be used.
- (b) Initial zoning. Simultaneous annexation petitions, the petitioner shall also submit an initial zoning request. Annexation and initial zoning shall be a joint and concurrent action and shall have final approval of the Village Council after recommendation by the Planning Commission. All newly annexed areas shall be considered to be in the R-1 district until otherwise classified.
- (c) Annexation petition. Initial submission of an annexation petition and plat must be accompanied by applicable fees and will include the following information as well as any details and materials determined by the Planning Administrator:
- (1) A petition which shows the following:
- Date.
 - Description of the property (certified by a New Mexico professional land surveyor).
 - Acknowledgement of property owners.
 - Name of property owners.
 - Address of property owners.
 - Signature of property owners, duly notarized.
- (2) Annexation plat which contains:
- Annexation name.
 - Acreage of the site to the nearest one-tenth acre.
 - Location map (inscribed on plat).

Commented [CG15]: Question for Legal Staff if this changes the meaning or intent. Unclear.

- d. Certification block for the mayor and village clerk.
 - e. Certification and recording block for the county clerk.
 - f. Certification block for the New Mexico professional land surveyor with seal and date.
 - g. Survey, scale and north arrow.
 - h. Plat boundary lines (bearings in degrees, minutes and seconds with distances in feet in hundredths).
 - i. Adjacent land conditions (within 150 feet).
 - j. Public rights-of-way existing on the site: Name, width and curve data.
 - k. Public rights-of-way abutting the site: Name, width and curve data.
- (3) Statement regarding the adequacy of infrastructure, public facilities and operational services to serve the area proposed for annexation.
 - (4) Copy of the proposed annexation agreement.
 - (5) Application for initial zoning, including fee.
 - (6) Site plan for proposed development, if any.
 - (7) Site plan for existing development.
 - (8) Statement regarding water rights.
- (d) Review procedure.
- (1) The flow chart included in this subsection details the village annexation process. In reviewing annexation petitions, the planning department looks at the proposed annexation in conjunction with the comprehensive plan and major transportation plan to determine the initial zoning classification and determine the need for dedication of public right-of-way.
 - (2) The infrastructure division looks at streets and utilities and the physical relationship of property proposed for annexation to determine the feasibility of serving the subject land. Other departments review the proposed annexation for general input on their particular service. Legal counsel will review the application and annexation agreement to determine compliance with applicable state statutes.
 - (3) The annexation petition shall also be distributed to the village public schools and all private utilities for review and comment.
- (e) ANNEXATION PROCESS
- (1) Petition signed by property owners is presented to Planning Administrator.
 - (2) Plat of survey and legal description signed by New Mexico professional land surveyor.

- (3) Annexation and initial zoning request reviewed by village staff (three weeks).
- (4) Notice of public hearing published 15 days prior to Planning Commission meeting.
- (5) Annexation and initial zoning are presented at Planning Commission public hearing for recommendation to Village Council.
- (6) Upon the commission's recommendation, both annexation and initial zoning ordinances are placed on the Village Council agenda (ordinances advertised 15 days).
- (7) If annexation is denied by council, process ends. Petitioner may appeal to district court.
- (8) If annexation is approved by council, annexation plat signed and filed with county clerk. Two filed copies returned to village. If zoning is denied, staff and property owners negotiate alternate zoning request. If initial zoning is approved, district is designated.
- (9) Annexation is deemed final and complete 30 days after filing.
- (10) Length of time for process: Three to six months.
- (11) Fees to be paid: Annexation fees plus initial zoning fees as listed in the fee schedule in appendix A to this Code.

(Code 1985, § 10-2-11)

Sec. 54-65 VACATION

- (a) Vacation criteria. Vacation (closing) is the method by which land used to provide access for the movement of people, goods, drainage, utilities (surface or subsurface), vehicles and services is closed to those uses. Anyone (including the village) may request a vacation. A vacation may be approved if it is determined that:
- (1) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of that right; and
 - a. The public welfare is not served by retaining the way or easement; or
 - b. The development made possible by the vacation results in a net benefit to the public welfare which is clearly more beneficial to the public welfare than the minor detriment resulting from the vacation.
- (b) Partial vacation. Vacation may not result in closure of all uses. For example, public access may be closed while utility access through creation of a defined utility easement is retained.
- (c) Preapplication discussion. Applicant shall meet with the planning department prior to submitting a formal application.
- (d) Application contents. Applicant shall submit a formal application for vacation of right-of-way or easement to the planning department along with the appropriate application fee as set forth in Appendix A to this Code. Include the following items with the application:
- (1) A right-of-way or easement survey meeting the standards of NMAC 12.8.2.13 (New Mexico Administrative Code) showing the area to be vacated and the surrounding properties.
 - (2) Certification that the applicant has notified all property owners within the notification area as set forth in section 54-40. Certification may be documentation provided by the postal service or a notarized statement from the applicant.
 - (3) The location, description and ownership of all utilities within the proposed vacation area.
 - (4) Statements from all utility companies stating their agreement to the proposed vacation and specifying any conditions of approval. These shall be on company letterhead with the title of the person signing the letter.
 - (5) Statements from property owners within the notification area identifying their position on the proposed vacation. These may be in letter form signed by the property owner. It is not necessary to obtain a letter from every property owner within the notification area. The intent of this requirement is to provide an early indication of either support for or objection to the proposed action. It is in the applicant's best interest to have met with or discussed the action with neighboring property owners and obtained their agreement to the proposed action prior to submitting a formal application to the village.
 - (6) In the event the parcel vacated exceeds the sum of \$2,500.00 in value based on the acquisition fee schedule set forth in Appendix A, the applicant shall also comply with the provisions of NMSA 1978 § 13-6-2 and the applicable regulation(s) of the state board of

finance (a copy of the statute and regulations are available in the village planning department).

- (e) Staff review of application and scheduling for review and action by planning commission. Planning department staff will review the application and advise the applicant when it is complete. The planning staff shall then prepare a staff report and forward a draft copy to the applicant for review. The application will be heard as a regular item at the next planning commission meeting scheduled at least 14 days after completion of the staff report.
- (f) Notification. The planning department staff shall provide notice of the planning commission meeting at which the application is scheduled to be discussed and voted on as specified in section 54-40.
- (g) Planning commission action. The planning commission shall hear the case and vote to recommend that the village council authorize the vacation and sale with conditions, vote to recommend that village council reject the vacation application or vote to forward the application to village council with no recommendation.
- (h) Village council action. The planning department shall forward the recommendation of the planning commission to the village clerk along with a request to schedule the application for review and action by village council. The village clerk, in consultation with the mayor and village manager, shall schedule the application for review and action by the village council. The application shall be heard as a regular item after at least 30 days public notice in newspapers of general circulation in the state. The planning staff shall provide the village clerk with all pertinent information, including minutes of the planning commission meeting at which the item was discussed and voted on, in sufficient time prior to the meeting at which the item will be discussed by village council so that the information may be included in the councilmembers' briefing books.
- (i) Finalization of vacation and sale. If village council votes to approve the vacation and authorize sale of the land, the planning department staff shall coordinate the preparation, signing and recording of the appropriate documents. The applicant's surveyor or engineer shall provide all required legal descriptions and drawings. For those vacations that will require state board of finance review prior to completing the vacation, the applicant or other eligible adjoining property owner shall obtain an appraisal and pay the appropriate acquisition fee as determined by the appraisal. Should the appraised value of the right-of-way be more than ten percent less than the value set forth in Appendix A, the village may obtain another appraisal and the value of the right-of-way shall be the average of the two appraisals. If the village decides not to seek a second appraisal, the value of the right-of-way shall be the average of the applicant's appraisal and the value set forth in Appendix A.

Sec. 54-66 ENFORCEMENT

(j)

DIVISION 7: DEVELOPMENT STANDARDS

Sec. 54-67 PURPOSE OF DIVISION.

The purpose of this division is to establish general development performance standards. These standards are intended and designed to ensure compatibility of uses, to prevent blight, to enhance the health, safety and general welfare of the residents of the community, and to preserve the natural environmental character of the village.

(Code 1985, § 10-5-1; Ord. No. 98-02, § 1, 2-10-98)

Sec. 54-68 RESIDENTIAL TERRAIN MANAGEMENT.

(a) *Purpose; intent.* The purpose of this division is to protect the natural environment of the village for social, economic and environmental purposes. To this end, it is the intent of the terrain management stands in this section to:

- (1) Preserve hillside features within the village in their natural state.
- (2) Encourage the planning, design and development of building sites in such a fashion as to provide the maximum safety and enjoyment, while adapting to, and taking advantage of, the best use of the natural terrain.
- (3) Encourage the maximum protection and retention of natural features such as drainage swales, streams, slopes, ridge lines, rock outcrops, scenic views and trees.
- (4) Minimize the need to pad or terrace building sites on hillsides.
- (5) Minimize the scarring of hillside areas.
- (6) Encourage restoration of disturbed areas to their natural state.

It shall not be the intent or purpose of this section to preclude development, but to ensure that development enhances rather than detracts from, or ignores, the natural topography, resources and amenities of the hillsides.

(b) *Applicability.* Development proposed or located on any residential site with average slopes in excess of 20 percent within the village shall be subject to the regulations and requirements of subsections (c) and (d) of this section. The following formula may be used to determine the average slope:

$S =$

Where:

S = Average percent of slope of the site.

I_c = Contour interval.

L_c = Total length of the contour lines within the site.

A = Area in acres of the site.

For subdivided lots of less than one half acre, average slope may be expressed as the ratio of rise or fall to a distance in percent (i.e., a one percent slope rises (or falls) one foot in 100 feet).

- (c) *Information required.* For proposed developments meeting the conditions of subsection (b) of this section, the following information shall be submitted. This information shall be in addition to any information required elsewhere in this Code.
- (1) A proposed grading plan including the following:
 - a. The proposed drainage plan shall address roof and driveway surfaces, final ground cover and erosion control.
 - b. Detailed plans of all drainage devices, walls, cribbing, dams or other protective devices to be constructed in connection with, or as part of, the proposed work.
 - c. The location of easements for drainage.
 - (2) A map showing:
 - a. Accurate contours at five foot intervals showing existing and proposed topography of the site and of the land within 100 feet of the site.
 - b. The location of observed drainage courses, springs, swampy areas and areas subject to flooding, landslides and mud flows.
 - (3) Additional information, as determined by the planning commission, which is deemed necessary to guarantee compliance with the purpose of this section.
- (d) *Development approval.* Approval for any development in areas meeting the guidelines established in subsection (a) of this section shall be granted in accordance with the development approval procedure set forth in subsection (b) of this section upon a finding that the grading and development plan is designed to meet such guidelines and the following standards:
- (1) Fill and excavation areas shall meet the following standards:
 - a. No organic material may be used.
 - b. Compaction shall be a minimum of 90 percent of maximum.
 - c. Steepness of finished slope shall not be greater than two feet horizontal to one foot vertical, unless a slope and retention plan certified by a qualified engineer is approved.
 - (2) The maximum percent of the site to be disturbed (area under building footprint, parking and driveway areas) shall be as follows:

Percent Average Slope	Disturbed Area Allowed
0—20	75
21—35	65
36+	55

Lots nonconforming as to lot size as defined under subsection 54-143(j)(1) may be allowed up to an additional ten percent of disturbed area. Applications for disturbed area increase will be considered under minor amendment procedures set forth under subsection 54-67(g). Disturbed area increase shall be the minimum necessary to allow reasonable development of the property. Disturbed area increase above ten percent shall require variance consideration by the planning commission.

(Code 1985, § 10-5-2; Ord. No. 98-02, § 1, 2-10-98; Ord. No. 2000-01, 3-14-00; Ord. No. 2019-02, 3-12-19)

Sec. 54-69 COMMERCIAL TERRAIN MANAGEMENT.

- (a) The provisions of this section shall apply to all commercial development.
- (b) Fill and excavation areas shall meet the following standards:
 - (1) No organic material may be used.
 - (2) Compaction shall be a minimum of 90 percent of maximum.
 - (3) Steepness of finished slope shall not be greater than two feet horizontal to one foot vertical, unless a slope and retention plan certified by a qualified engineer is approved. Provided, any slope with a steepness of 2 to 1 or greater shall have erosion control satisfactory to the commission.
- (c) Retention ponds or other suitable methods satisfactory to the planning commission shall be utilized to control drainage and erosion during construction.

(Ord. No. 2000-01, 3-14-00)

Sec. 54-70 FOREST MANAGEMENT.

- (a) *Purpose; intent.* The purpose of this section is to protect the natural environment of the village for social, economic and environmental purposes. To this end, it is the intent of the forest protection standards to:
 - (1) Provide for the sound management, protection and maintenance of trees and woodland located in the village in order to prevent unhealthy overgrowth, prevent excessive removal of vegetation, minimize damage from erosion and siltation, maintain or enhance appropriate wildlife habitat, reduce fire danger and ultimately preserve the economic viability of the village, which is dependent upon the proper management of the natural resources in the area and is in the interest of the health, safety and general welfare of the residents of the village.
 - (2) Manage and protect the forest areas of the village to restore their health, preserve and protect old and large trees, and facilitate an added value concept to enhance aesthetics and property values.
 - a. Old or large trees shall be defined as any specie of live tree 20 inches or greater in diameter measured 4.5 feet from the ground (DBH).
 - b. The planned removal of old or large trees must be reviewed and a permit issued by the director of forestry prior to removal.
 - c. Old or large trees shall be subject to the provisions of subsection (c)(4) herein, relating to protected root zone.
- (b) *Administration.* The director of forestry or his duly authorized representative shall have responsibility for administration of this section.
- (c) *Fuels management approval.*
 - (1) Residential fuels management. Inspection by the forestry department and certification is required on all properties. Fuels management shall be in accordance with the provisions of Section 42-80. Properties are required to maintain a forested appearance with a minimum density of 40 trees per acre prorated to the size of the lot excluding area covered by structures, driveways, and parking areas.
 - (2)

- (4) *Protected root zone.* Trees to remain for consideration according to the approved site plan shall be protected above and below ground from damage caused by construction and site development activities as provided herein:
- The protected root zone shall be defined as a horizontal radius distance from the trunk of the tree. The distance varies by tree size, subject to the following minimums:

Tree height in feet	Horizontal radius in feet
Less than 10	4
10—20	6
21—30	8
31—40	12
41—50	16
51—60	20
Greater than 60	24

- No trenching, cut or fill activities, compaction or other ground disturbing activities may intrude closer than 50 percent of the horizontal radius.
 - Paving and other non-pervious surfacing may not reduce the protected root zone more than 30 percent of the horizontal radius.
 - Temporary fencing or equivalent protective measures shall be installed around all trees to be considered for minimum basal area requirements within 30 feet of ground disturbance. The temporary fencing shall be installed at the outer limit of the protected root zone. This protection shall remain in place until all construction and site development activities are complete or removal is approved by the director of forestry.
- (5) *Standards for tree removal activities:*
- All chainsaws weed eaters and like equipment with two-cycle motors used in the removal of trees, slash and debris shall be equipped with spark arresters.
 - It is the responsibility of the property owner to provide for the disposal of all of the slash in a legal and appropriate manner. Failure to provide for disposal will subject the owner to the nuisance provisions of this Code.
 - Activity slash from all species to remain on site for firewood must comply with Section 42-80 in terms of size and spacing. In addition, each stack of green wood shall be covered with six ml (minimum thickness) clear/translucent plastic or the like for a minimum of ten months to minimize bark beetle habitat and infestation.
 - Individuals or contractors removing trees will be fully responsible for any damage to public and private property or utilities.

(6) *Utility easements.*

- a. *Rights and duties of utility franchisees.* To provide for the general safety of the public, the utility franchisees of the village shall have the right and responsibility to maintain unobstructed utility easements or to cut, trim, thin, and control the growth of trees and shrubbery, within, near, or above the public right-of-way and private utility easements in the village that may interfere with, threaten or endanger the operation of the franchisee's overhead lines. Trees will not be topped but shall be completely removed.
- b. *Rights and duties of property owners.*
 1. The property owner is primarily responsible for maintaining the low vegetation and other flammable matter in the private easements and rights-of-way in such a manner that the low vegetation and other flammable matter will not be a potential fire hazard.

A property owner who refuses access to the utility easement by a utility franchisee shall be solely responsible for the cost to provide for an unobstructed utility easement.

- (3) *Property owner responsibilities.* Every property owner within the village limits shall maintain their property in accordance with section 42-80 of this Code. If a property owner places green waste on the public right-of-way for grapple pick-up, the property owner shall separate the green waste into two categories: 1) six inches or greater in diameter; or 2) less than six inches in diameter. Any green waste that the property owner places on the public right-of-way for grapple pick-up shall be no greater than six feet in length. Any green wood on the property shall be kept in accordance with section 42-80 of this Code and shall be covered with six ml (minimum thickness) clear/translucent plastic for a minimum of ten months to minimize bark beetle habitat and infestation.

(Code 1985, § 10-5-3; Ord. No. 96-10, § II, 7-30-96; Ord. No. 99-19, § 1, 10-26-99; Ord. No. 2002-07, 6-25-02; Ord. No. 2004-05, 5-11-04; Ord. No. 2013-06, 7-9-13)

Sec. 54-71 SCREENING.

- (a) *Multi-density and medium-density mobile home developments.* All R-3, R-4 and M-2 district principal and accessory uses, except signs, which are situated on a parcel which abuts a residential district other than R-3, R-4 or M-2, respectively, shall be screened from such district by an approved wall, fence or landscaping not less than six feet in height above the level of the adjacent property at the district boundary. Walls or fences of lesser heights or planting screens may be permitted by the village if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote the use and enjoyment of the properties within the adjacent residential district, or there is a finding that screening of the type required by this article would interfere with the provision of adequate amounts of light and air to such properties. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site, and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed. Vegetative screening shall meet the requirements of Section 42-80 Fuels Management Standards. This subsection shall not apply when the apartment development is adjacent to an already-existing nonresidential use (i.e., a school or church) in a residential district. Such exception to the screening requirement shall only be allowed along that property line between the apartment development and the nonresidential land use.
- (b) *Business and industrial developments.* All principal and accessory uses, except signs, which are situated on a parcel which abuts a residential district shall be screened from such district by an approved wall, fence or landscaping not less than six feet in height above the level of the residential property at the district boundary. Walls or fences of lesser heights or planting screens may be permitted by the village if there is a

finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote the use and enjoyment of the properties within the adjacent residential district, or there is a finding that screening of the type required by this article would interfere with the provision of adequate amounts of light and air to such properties. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site, and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed. Vegetative screening shall meet the requirements of Section 42-80.

(Code 1985, § 10-5-4)

Sec. 54-72 LANDSCAPING.

- (a) *Purpose.* Landscaping requirements as set forth in this article have been established to encourage quality development within the village; to provide a smooth transition between adjoining properties; to screen service yards, parking lots and other areas which tend to be unsightly; to facilitate the buffering of one land use from other land uses; to encourage harmonious relationships between buildings which are part of one development and buildings located on abutting properties; to provide open space and recreational areas to serve the needs of the residents of the village; to soften the effect of development; to improve erosion and stormwater runoff control; to reduce the particulate matter in the air; to encourage a sense of commitment to the village and its residents on the part of the developers; and to provide for the health, safety and general welfare of the residents of the village.
- (b) *Definition.* Landscaping, for purposes of this article, shall be defined as including any or all of the following:
 - (1) Naturally existing vegetation;
 - (2) Lawn or grass areas;
 - (3) Trees, shrubs, ground cover and other plantings;
 - (4) Sprinkler or irrigation systems;
 - (5) Decorative rock, natural or manmade;
 - (6) Decorative lighting;
 - (7) Benches, tables, fountains, planters or other similar outdoor furniture;
 - (8) Decorative fences, and detention and retention ponds;
 - (9) Waterfalls and manmade streams; and
 - (10) Berms or mounds.
- (c) *Landscaping plan.*
 - (1) A landscaping plan shall be submitted in conjunction with any required site plan, and shall be reviewed and approved, denied or modified in conjunction with the site plan. All exposed ground areas surrounding or within a principal or accessory use, including street boulevards, which are not devoted to drives, parking lots, sidewalks, patios or other such uses shall be landscaped.
 - (2) When possible, areas of any particular site allocated to landscaping shall be located on that site in such a way as to provide substantial benefit to the general public as well as to the site itself.
 - (3) Landscaping shall also be provided within parking lots in a manner which will serve to visually reduce the expanse of paved areas consistent with subsection 54-141(b)(1)c. and d.
- (d) *Minimum landscaping.*

- (1) *Single family residential*
- a. All areas not used for buildings, parking, drives or other impervious materials, or for storage of materials, or left in a natural and undisturbed state, shall be landscaped according to an approved landscape plan.
 - b. For townhouses, landscaping shall be required only in the front yards, side yards and unpaved rights-of-way.
- (2) *Multifamily, commercial and industrial developments.* All areas in front and corner side yards not used for parking, drives or other impervious materials or storage shall be landscaped according to an approved landscape plan based on the standards of subsections (3) and (4) below.
- (3) *Planting of trees.*
- a. Perimeter landscaping: Each commercial or industrial application shall provide for one tree and ten shrubs for every 1,500 square feet of lot area or a portion thereof not utilized for structures or vehicular use areas to be located within the perimeter of the site and around structures. This requirement shall be in addition to landscaping required by subsection b. below. Trees being retained on site to meet the standards of sections 54-133 and 42-80, may be credited towards meeting minimum tree numbers of this section.
 - b. Replacement trees required to be installed to meet the basal area standards of sections 54-133 and 42-80, shall be of the species listed in the "Village Approved Replacement Tree List".
 - c. Parking lot landscaping: Trees shall be provided for all parking lot areas. A minimum of one tree shall be provided for each ten parking spaces. Trees shall be distributed throughout the lot to maximize shading and eliminate large expanses of unbroken paved parking areas. Not less than six percent of the interior of a parking lot shall be landscaped with trees, shrubs or other durable landscaping materials consistent with the requirements of subsection 54-141(b)(1) addressing terminal and landscape islands.
 - d. Trees wells to be constructed to protect existing trees on site shall be built so that the outer edge of the well is no closer to the trunk than the drip line of the tree as determined by the village forester. A minimum size tree well of four feet in radius shall be required for all new tree plantings. The tree well shall constructed according to standards set by the village forestry department, and will also incorporate appropriately amended soils to encourage proper growth. Paving shall not be maintained closer than four feet to existing established or newly installed trees.
 - e. Trees to be installed pursuant to this chapter shall be a minimum size of two inches in diameter as measured at 4½ feet above ground.
 - f. The primary means of irrigating all required landscaping for shall be thru the use of a drip irrigation system.
 - g. The use of cisterns to collect rain water shall be incorporated into all new site development applications, but excluding single-family residential units. While cisterns are not required for single family residential units, the use of these features will be for encouraged.
 - h. Landscape plans shall be based on a modified xeriscape concept consistent with the village's "xeriscape standards". This shall mean that landscape plans shall incorporate drought-tolerant plant species and the use of drip-irrigation systems.
- (4) *Peripheral landscaping for parking lots.* Peripheral landscaping shall be required along any side of all parking lots. A landscaping strip consistent with the provisions of the property's zoning district shall be

provided between the parking area and adjoining property. Where a commercial parking area adjoins a residential district, a wall, or other permanent landscaping barrier shall be installed. The height of such landscaping barrier shall be not less than six feet.

- (e) *Installation or financial guarantee required prior to issuance of occupancy permit; maintenance guarantee.*
 - (1) All landscaping materials and equipment as provided for on the approved landscape plan for any residential, business or industrial development, or in the case of phased development, for the particular phase, shall be installed prior to the issuance of any occupancy permit, unless a financial guarantee in the amount of 150 percent of the cost of the materials and labor is submitted to the village. Financial guarantees shall be of the types and forms provided in section 54-286.
 - (2) Upon completion of the landscaping requirements as provided on the approved landscape plan, the financial guarantee shall be released except for a portion in the amount of 20 percent of the cost of materials and installation, which shall be retained for a warranty period of one year as a guarantee for proper installation and maintenance. Following the warranty period, the remaining 20 percent guarantee shall be released upon a finding that installation and maintenance has occurred as per the approved landscape plan.
- (f) *Maintenance standards; prohibited uses.* All landscaped areas shall be kept neat, clean, uncluttered, and consistent with the approved landscape plan in terms of landscape materials for the life of the approved development order. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies or merchandise.
- (g) *Protection of existing trees during construction.* During the installation and site work, all activities shall remain consistent with the provisions of section 54-133.
- (h) *Inspection fee.* A landscaping inspection fee as set forth in Appendix A to this Code shall be assessed and paid with the building permit fee. The landscaping inspection fee shall cover the cost of inspection after completion of installation of the landscaping and a follow-up inspection at the end of the warranty period. An additional fee shall be charged if more than one re-inspection is required either during initial installation or at the end of the warranty period.
- (i) *Maintenance of detention/retention facilities.* On-site private detention/retention facilities, including ponds, cisterns, rain barrels and related pumps and piping, that were installed as mandated by a condition of approval, final plat requirement, approved site plan, approved construction plans, development order or development agreement shall be maintained by the property owner to insure that they function as designed. The property owner shall, at least annually, remove any accumulated dirt and debris from detention/retention facilities, clean piping of obstructions and service mechanical equipment per manufacturer's instructions.
- (j) *Inspection of detention/retention facilities.* Once every two years or after any officially recognized flood event the village may inspect the private detention/retention facilities to insure that they are in working order and provide the capacity for detention/retention as originally designed. The village shall charge a fee for the inspection as set forth in appendix A to this Code.
- (k) *Failure to maintain detention/retention facilities.* If, at any time, there is evidence of failure to maintain the private detention/retention facilities, the code enforcement officer or planning administrator shall notify the property owner in writing. The notification shall set a time limit not to exceed 90 days for bringing the facilities into compliance. Should the property owner fail to comply with the ordered repairs, the village may make the needed repairs and lien the property.
- (l) *Detention/retention facility security.* The planning commission shall require that any detention/retention facility located on private property be secured with appropriate barriers or alternate safety measures.

(Code 1985, § 10-5-5; Ord. No. 2006-09, 10-31-06; Ord. No. 2007-04, 4-24-07; Ord. No. 2007-09, 9-11-07; Ord. No. 2009-02, 1-13-09)

Sec. 54-73 USE OF CERTAIN AREAS AND STRUCTURES AS DWELLING UNIT PROHIBITED.

No cellar, garage, tent, trailer, basement with unfinished structure above, or accessory building shall at any time be used as a dwelling unit. The basement portion of a finished home may be used for normal living, eating and sleeping purposes, provided it is properly permitted, approved and meets the requirements of section 22-31 of this ordinance and any other applicable requirements of this article or this Code.

(Code 1985, § 10-5-6; Ord. No. 2019-02 , 3-12-19)

Sec. 54-74 ACCESSORY STRUCTURES, USES AND EQUIPMENT.

- (a) An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a covered walkway or other similar structure.
 - (b) Accessory structures and garages in residential districts shall not be located within a utility easement.
 - (c) Construction of more than one accessory detached private garage structure for each dwelling shall not be permitted.
 - (d) No accessory building shall be constructed or developed on a lot prior to the time of construction of the principal building to which it is accessory, except by conditional use permit.
 - (e) Accessory structures in commercial or industrial districts shall be as required.
 - 1. Shall not exceed the height of the principal building except by conditional use permit.
 - 2. Must be located any place to the rear of the principal building.Exception: C-4 and I-1 districts.
 - (f) Accessory structures that exceed 120 square feet shall meet the requirements of section 22-31 and other applicable sections of this article or this Code.
 - (g) Carport(s) shall have foundations and be constructed per section 22-31 of this Code and shall be characteristic of building types within the area.
 - (h) Accessory structures shall not require land development or construction permits when all the following are met:
 - a. Does not exceed 120 square feet, and maximum ten-foot eave height and is a minimum of ten feet from other structures.
 - b. Does not encroach less than five feet of side or back property lines.Exceptions:
 - I. Schools and civic, cultural and religious institutions accessory structures shall have setbacks of 50 feet minimum on all sides. - c. Does not encroach less than 20 feet of front property line.
- Exceptions:
- I. Schools and civic. Cultural and religious institutions accessory structures shall have setbacks

of 50 feet minimum on all sides

II. C-1, C-2, C-3 and I-1 district requirements apply as required.

- d. Only one exempted accessory structure on property meeting the requirements of this article shall be permitted. Additional similar structures shall meet the requirements of section 22-31 and other applicable sections of this article or this Code.
- e. Is limited to storage structures, tool houses, play houses, green houses, sheds, agricultural structures and other similar uses.

(Code 1985, § 10-5-7; Ord. No. 2019-02 , 3-12-19)

Sec. 54-75 FENCES.

- (a) *Building permit; site development approval.* No person, except on a farm and as related to farming, shall hereafter construct or cause to be constructed or erected within the village, in any residential district, any fence without first making an application for and securing a building permit. Site development approval and building permits shall be obtained for all fences in C-1, C-2, C-3, C-4 and I-1 districts.
- (b) *Location.* All fences shall be located entirely upon the private property of the person constructing or causing the construction of such fence, unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties.
- (c) *Construction and maintenance; restricted materials; nonconformities; height.*
 - (1) *Construction and maintenance.* All fences shall be constructed in a substantial, workmanlike manner of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair, damage or unsightliness, or constitute a nuisance, public or private. Any such fence which is or has become dangerous to the public safety, health or welfare, or has become unsightly through improper maintenance or neglect, is a public nuisance, and the planning administrator shall commence proper proceedings for the abatement thereof.
 - (2) *Restricted materials.* Site development approval is required by the planning commission for all installations of barbed wire and/or razor wire. Use shall be restricted to properties where necessity has been shown that security is required to protect hazardous processing, products, equipment, storage or attractive nuisances or in situations of exceptional need. Barbed wire and razor wire are prohibited fencing materials except under one of the following conditions:
 - a. Public and private utilities may install barbed wire or razor wire at the top of fencing.
 - b. Commercial and industrial development may install barbed or razor wire at the top of fencing.
 - c. Buildings and properties which involve attractive nuisances may install barbed wire at the top of fencing.
 - (3) *Effective date; nonconforming fences.* Any fencing existing on the effective date of the ordinance from which this section is derived, September 24, 1994, which does not comply with the regulations of the district in which it is located, shall be deemed a lawful nonconforming fencing installation. All new or replacement fencing shall fully conform to regulations established in this section.
 - (4) *Measurement of height.* The height of any fence shall be calculated to the uppermost points as follows:
 - a. In required yards abutting a street, the height of the fence shall be the total effective height

measured from the finished grade on the side nearest the street.

- b. In other required yards, the height of the fence shall be the total effective height above the finished grade measured on the side nearest the abutting property.
 - c. On property lines, the height may be measured from the finished grade of either side when the abutting property owners are in joint agreement, with such agreement submitted in writing.
- (d) *Residential districts.* In all parts of the village zoned residential, no fence shall be erected or maintained more than eight feet in height, and also:
- (1) Solid fences, walls or hedges which are parallel or approximately parallel to the front property line shall be set back from the front line a minimum of five feet.
 - (2) On corner lots in all districts, no fence or planting in excess of 30 inches above the street centerline grade shall be permitted within a triangular area defined as follows: measured 30 feet along the front and side street lines of a corner lot from the intersection of the property lines of such lot and a line connecting points 30 feet distant from the intersection of the property lines of such lot.
 - (3) In those instances where a fence is erected as an enclosure which restricts access from the front to the rear yard, a gate, identifiable collapsible section, or other such means of recognizable ingress shall be installed, shall remain unobstructed and shall measure a minimum of three feet in width. The location of such ingress points shall be positioned at any point paralleling the front lot line between the side lot property line and the principal structure.
- (e) *Business and industrial fences.* Fences in all commercial and industrial districts shall not exceed 12 feet in height, except that boundary line fences abutting residential districts shall not be greater than eight feet in height.
- (f) *Finished side to face adjoining property.* In all districts, any fence so constructed as to have only one elevation "finished," which shall be defined as not having its supporting members significantly visible, shall be erected such that the finished elevation of the fence is exposed to the adjacent property.

(Code 1985, § 10-5-8)

Sec. 54-76 RETAINING WALLS.

- (a) *Site development approval.* No person shall construct or cause to be constructed or erected along any property lines within the setback areas within the village, any retaining wall above four feet in height without first obtaining site development approval from the planning commission, except that all retaining walls within the floodplain area shall be approved in accordance with article IV of this chapter. Site development plans for individual retaining walls on previously developed lots may be approved by the planning administrator subject to concurrence by the chairman and vice-chairman of the planning commission. Following site development plan approval, a building permit shall be obtained from the building official.
- (b) *Location.* All retaining walls shall be located entirely upon the private property of the person constructing or causing the construction of such retaining wall, unless the owner of the adjoining property agrees, in writing, that such retaining wall may be erected on the division line of the respective properties. The planning administrator may require an applicant for a retaining wall permit to establish the boundary lines of his property by a survey thereof, to be made by a registered land surveyor.
- (c) *Construction and maintenance.* All retaining walls shall be constructed in conformance with applicable building codes in a substantial, workmanlike manner and of substantial material reasonably suited for the

purpose for which the retaining wall is proposed to be used. All retaining walls shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such retaining wall which is or has become dangerous to the public safety, health or welfare is a public nuisance, and the planning administrator shall commence proceedings for the abatement thereof.

- (d) *Maintenance easement.* In any instance where a retaining wall is constructed within four feet of a rear or interior side lot line, the property owner shall be required to obtain an easement from the adjoining landowner allowing access for construction and maintenance of the retaining wall. Such easement shall be presented to the planning administrator for inspection prior to issuance of the necessary building permit.

(Code 1985, § 10-5-9)

Sec. 54-77 SETBACK AND HEIGHT ENCROACHMENTS, LIMITATIONS AND EXCEPTIONS.

The following shall be considered as permitted encroachments on setback and height requirements, except as otherwise provided in this article:

- (1) *Permitted encroachments in any yards.* The following are permitted in any yards: posts, off-street open parking spaces, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, flagpoles, ornamental features, open fire escapes, sidewalks and fences, except as otherwise provided in this article; also, yard lights and nameplate signs in residential districts, trees, shrubs, plants, floodlights or other sources of light illumination, and authorized lights or light standards for illuminating parking areas, loading areas or yards for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.
- (2) *Permitted encroachments in side and rear yards.* Balconies eight feet above grade may extend into the yards to within five feet of a lot line, provided the balconies do not extend over nonresidential driveways. Detached outdoor picnic shelters, open arbors and trellises may extend to within five feet of a side or rear lot line, except that no such structures shall exceed 500 square feet. Recreational equipment, picnic tables and apparatus needed for the operation of active and passive solar energy systems are permitted encroachments.
- (3) *Permitted encroachments in rear yards.* The following are permitted in rear yards: laundry drying equipment; patios; covered porches; breezeways and detached outdoor living rooms may extend 20 feet into the rear yard but not closer than ten feet to the rear lot line.
- (4) *Exemptions from height limitations.* Height limitations shall not apply to church spires, belfries, cupolas and domes, monuments, chimneys and smokestacks, flagpoles, public and private utility facilities, transmission towers of commercial and private radio broadcasting stations, television antennas, parapet walls extending no more than four feet above the limiting height of the building (except as otherwise provided in this article), and solar energy collectors and equipment used for the mounting or operation of such collectors.
- (5) *Exemption from building setback requirements for buildings with party walls.* Subject to regulations in section 22-31 and as required by other applicable sections of this article or this Code, buildings may be excluded from side and rear setback requirements provided party walls are used and if the adjacent buildings are constructed as an integral unit.

- (6) *Covered decks, porches and breezeways in front yards.* Covered decks, porches and breezeways in R-1, R-2, M-1 and M-2 districts may extend into the front yard, but not closer than 15 feet to the front property line, provided that they are not enclosed.

(Code 1985, § 10-5-10; Ord. No. 2017-07 , § 3, 6-13-17; Ord. No. 2019-02 , 3-12-19)

Sec. 54-78 OFF-STREET PARKING FACILITIES.

(a) *General provisions.*

- (1) *Calculation of floor area.* The term "floor area," for the purpose of calculating the number of off-street parking spaces required, shall be determined on the basis of the exterior area dimensions of the building, structure or use times the number of floors, minus ten percent, except as may be otherwise provided or modified in this article.
- (2) *Change of use or occupancy of buildings.* Any change of use or occupancy of any building, including additions thereto requiring more parking, shall not be permitted until such additional parking spaces as required by this article are furnished. This provision does not apply to buildings with principle permitted uses in C-1, C-2, or C-3 districts that existed prior to August 1, 1999.
- (3) *Use of parking facilities accessory to residential use.* Off-street parking facilities accessory to a residential use shall be utilized solely for the parking of licensed and operable passenger automobiles and trucks, with no trucks exceeding 5,500 pounds, and recreational vehicles and recreational equipment. Under no circumstances shall required parking facilities accessory to a residential structure be used for storage of commercial vehicles or equipment or for the parking of automobiles belonging to the employees, owners, tenants or customers of business or manufacturing establishments.

(b) *Design standards.*

(1) *Stall and aisle dimensions; traffic flow.*

- a. Parking stalls and aisles shall be provided according to the following minimum requirements in all districts:

Parking Angle	Stall Width (feet)	Stall Base (feet)	Stall Depth (feet)	Width of Aisle	
				One-Way Traffic (feet)	Two-Way Traffic (feet)
30°	9	18	18.2	15*	25
45°	9	6.5	19	15*	25
60°	9	10.5	22	20	25
75°	9	9.5	21.5	20	25
90°	9	9	20	20	25

Parallel parking	9	9	22	15*	25
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*Except where needed as a fire lane, in which case a 20-foot minimum is required.

- b. All angle parking, except 90-degree and parallel parking, shall have aisles designed for one-way traffic flow only, except that two-way traffic is permitted in designs approved by the planning administrator and Public Works Department. All parking designs shall have ingress and egress to a public street. There shall be no through traffic access to adjoining properties or private easements, except within designated shopping centers.
- (2) *Parking within structures.* The off-street parking requirements may be furnished by providing spaces so designed within the principal building or a structure attached thereto; however, no building permit shall be used to convert the parking structures into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this article.
- (3) *Circulation; backing onto public street.* Except in the case of single-family, two-family, townhouse, three-family and four-family dwellings, parking areas shall be designed so that there is circulation between parking bays and not upon a public street or alley. Except in the case of single-family, two-family, townhouse, three-family and four-family dwellings, parking area design which requires backing into the public street is prohibited.
- (4) *Preservation of off-site parking.* When required accessory off-street parking facilities are provided elsewhere than on the lot with the same ownership or control, either by deed or longterm lease, as the property occupied by such principal use, the owner of the principal use shall file a recordable document with the village and county clerk requiring the owner and his heirs and assigns to maintain the required number of off-street spaces during the existence of the principal use.
- (5) *Driveways required.* All off-street parking spaces shall have access from driveways and not directly from the public street.
- (6) *Distance of access points from street intersections.* No access point (measured to the middle of the driveway) shall be located less than 40 feet in residential districts, 150 feet in commercial districts, or 150 feet in industrial districts, from the intersection of two public street rights-of-way.
- (7) *Length of parallel parking spaces.* Parallel parking spaces shall be a minimum of 22 feet in length.
- (8) *Approval of driveways; sight line triangle.* All drive accesses shall be approved by the planning commission for width and location. A minimum sight line triangle measured 20 feet along the public right-of-way line and ten feet along the edge of the access drive shall be provided on both sides of a driveway access.
- (9) *Distance between driveways.* Driveway access openings on a public street, except for single-family, two-family and townhouse dwellings, shall not be located less than 40 feet from one another as measured from inside of drive to inside of drive.
- (10) *Number of driveways.* Each property shall be allowed one drive access for each 100 feet of street frontage. Single-family uses shall be limited to one drive access per property. These conditions shall apply unless otherwise granted approval by the planning commission.
- (11) *Requirements for specific types of development.*
 - a. *Commercial and industrial development.* The grade of ingress and egress driveways and parking lot aisles shall not exceed 12 percent. All driveways shall provide and maintain a six-

foot section from the edge of the traveled way with approximately a three-inch dip to the center (eight percent grade) from both directions. The dip section shall be paved with asphalt or concrete for the full driveway width. The base shall be a minimum of four inches with either 1½ inches of asphalt or four inches of concrete paving. The state highway and transportation department may require a lesser grade for driveways to N.M. Highway 48 and 70. Commercial and industrial development subject to state highway and transportation department approval shall provide evidence of approval by the department prior to issuance of a village permit. Drainage pipe under driveways, where required, shall be a minimum of 18 inches in size. Parking area grades shall not exceed three percent.

- b. *Multifamily residential development.* The grade of ingress and egress driveways and parking lot aisles shall not exceed 12 percent. All driveways shall provide and maintain a six-foot section from the edge of the traveled way with approximately a three-inch dip to the center (eight percent grade) from both directions. The dip section shall be paved with asphalt or concrete for the full driveway width. The base shall be minimum of four inches with either 1½ inches of asphalt or four inches of concrete paving. Multifamily development subject to state highway and transportation department approval shall provide evidence of approval by the department prior to issuance of a village permit. Drainage pipe under driveways, where required, shall be a minimum of 18 inches in size. Parking area grades shall not exceed three percent.
 - c. *Single-family and duplex development.* Ingress and egress drives shall be provided and maintained to give a clear sight line for street access. Drainage ditch, driveway profile or surfacing shall be so constructed so that surface water from the driveway or lot will not wash dirt, gravel and debris onto the traveled roadway. Driveways that wash dirt, gravel or debris onto the traveled roadway shall be considered a nuisance under subsection 38-62(a)(12). Driveways on the downhill side of the street shall be constructed to prevent erosion of the driveway or adjoining private property by runoff from the street. Driveways will be inspected by the street department inspector during final inspection of the residence for compliance and be required for a certificate of occupancy. The drainage pipe under the driveway, where required, shall be not less than 18 inches in size. Development subject to approval by the state highway and transportation department shall provide evidence of approval of such department prior to the issuance of a village permit.
 - d. *Variances.* Variances from requirements of subsections (b)(11)a and b of this section shall be requested in connection with the application for site plan approval (see section 54-67). Variances from the requirements of subsection (b)(11)c of this section shall be considered under section 54-67(f) and approved only on favorable finding of the planning administrator with approval by the chairman and vice-chairman of the planning commission. Variance requests not approved under section 54-67(f) will automatically be appealed to the full planning commission.
- (12) *Surfacing.* All areas intended to be utilized for parking space and driveways shall be surfaced with materials suitable to control dust and drainage. Plans for paving and drainage of driveways and stalls for five or more vehicles shall be submitted to the planning commission for review, and the final drainage plan shall be subject to the written approval of the Public Works Department.
- (13) *Striping.* Except for townhouses and single-, two-, three- and four-family dwellings, all parking stalls shall be marked with painted lines not less than four inches wide. Where possible, hairpin striping shall be used.

- (14) *Lighting.* Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses and public rights-of-way and shall be in compliance with this article.
- (15) *Signs.* No sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking lot. All signs shall conform to division 5 of this article.
- (16) *Perimeter curb and gutter.* Except for townhouses and single-, two-, three- and four-family dwellings, all open off-street parking areas and driveways shall have a perimeter curb and gutter around the entire parking lot built according to standards provided by the planning administrator.
- (17) *Vehicles not to protrude over property lines.* All of such parking stalls which abut property lines shall be designed and constructed so that parked vehicles will not protrude over property lines.
- (18) *Drainage.* Runoff from new multifamily and commercial development areas after the site is improved shall not exceed the prior runoff from the site when unimproved. On-site delay or interception of additional runoff by vegetation, temporary ponding, percolation pits or other approved methods shall be used to minimize any adverse effect on other properties.
- (c) *Maintenance.* It shall be the joint and separate responsibility of the lessee and owner of the principal use or building to maintain, in a neat and adequate manner, the parking space, accessways, striping, landscaping and required fences.
- (d) *Use of parking areas.* Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, distribution of public relations material, or storage of inoperable vehicles.
- (e) *Number of spaces required.* The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses:
 - (1) Dwellings:
 - a. Single-family, two-family, townhouse, three-family, four-family and multiple-family dwellings: Two spaces per unit.
 - (2) Motels, motor hotels and hotels: One space per each rental unit, plus one space for each ten units, plus additional spaces as may be required in this section for related uses contained within the principal structure.
 - (3) Churches, theaters and auditoriums: At least one space for each four seats based on the designed capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this article.
 - (4) Sanitariums, convalescent homes, rest homes, nursing homes or day nurseries: Four spaces, plus one space for each three beds for which accommodations are offered, plus one space for each employee on the shift of greatest employment.
 - (5) Elderly (senior citizens) housing: One space per unit.
 - (6) Convenience food restaurants: At least one space for each three seats, or one space for each three occupants based on the design capacity, whichever is greater.
 - (7) Bowling alleys: At least five spaces for each alley, plus additional spaces as may be required in this section for related uses contained within the principal structure.
 - (8) Motor fuel stations: At least four spaces, plus two spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts or service shall be required to provide additional parking in compliance with other applicable provisions of this article.

- (9) Retail store and service establishment: At least one off-street parking space for each 250 square feet of floor area for retail or service area, plus one space for each 500 square feet of area devoted to storage, warehousing or processing.
- (10) Furniture and carpet store: One space for each 500 square feet of floor area.
- (11) Manufacturing, fabricating or processing of products or materials: One space for each 350 square feet of floor area, plus one space for each company-owned truck (if not stored inside the principal building).
- (12) Warehousing, storage or handling of bulk goods: That space which is solely used as office shall comply with the office use requirements plus one space per each 1,000 square feet of floor area, plus one space for each employee on the maximum shift and one space for each company-owned truck (if not stored inside the principal building).
- (13) Automobile washing establishments (in addition to required stacking space):
 - a. Automatic drive-through, serviced: A minimum of three spaces, or one space for each employee on the maximum shift, whichever is greater.
 - b. Self-service: A minimum of two spaces per stall.
 - c. Service station carwash: None in addition to that required for the station.
- (14) Private racquetball, handball and tennis courts: Not less than three spaces per each court.
- (15) Offices (except medical and dental offices): One space for each 350 square feet of gross floor area; minimum of four spaces.
- (16) Medical and dental offices: Four spaces for each doctor or dentist, plus one per employee.
- (17) Restaurants and taverns: One space for each three seats, or one space for each three occupants based upon the design capacity, whichever is greater, plus one space for each two employees.
- (18) Schools, public and private:
 - a. Elementary and junior high schools: 1½ spaces for each classroom, library, lecture hall and cafeteria, plus one additional space for each three fixed seats in the auditorium, gymnasium or other place of public assembly or one space for every 21 square feet of area available for public assembly where no fixed seats are provided.
 - b. Senior high schools: 1½ spaces for each classroom or lecture hall, plus one additional space for each five students that the school is designed to accommodate, plus one additional space for each employee or staff member. For theaters, auditoriums, sports arenas, gymnasiums and similar places of public assembly, in addition, there shall be one space for each three fixed seats or one space for every 21 square feet of area available for public assembly where no fixed seats are provided. In no event shall less than ten spaces be provided for any use, regardless of the number of employees.
- (19) Day care facilities: One space for each eight enrollees, and one space for every employee.
- (20) Convention centers, civic/events centers and similar places of assembly: One space for every four fixed seats, or one space for every four persons based upon the design capacity of the building where fixed seats are not provided.
- (21) Drive-in banks: One space for every 300 square feet of building floor area, and storage space for four vehicles at each drive-in window.
- (22) Funeral homes: One space for each four seats in funeral service and state room areas, in addition to one space for each hearse or other commercial vehicle.

- (23) Hospitals: One space for every two beds.
 - (24) Automobiles and garages for repair, tire recapping, muffler, battery, brakes and other similar services: Three spaces for each service bay.
 - (25) Drive-in or walk-up food or drink services: One space for each three seats plus one space per employee and storage lanes a minimum of 15 feet wide and 100 feet in length for each drive-up service window. Drive-up only establishments shall provide a minimum of five parking spaces in addition to required employee parking.
 - (26) Laundry and dry cleaning, self-service: One space for every three pieces of rentable equipment.
 - (27) Recreation uses:
 - a. Golf courses, driving ranges, miniature golf or similar recreation:
 - 1. Four spaces per green for golf courses.
 - 2. One space per each two practice tees.
 - 3. Two spaces per green for miniature golf courses.
 - b. Health exercise facilities: One space per 50 square feet of floor area.
 - c. Swimming pools: One space per 140 square feet of pool area.
 - d. Skating rinks (ice or roller rinks): One space per 200 square feet of building area.
 - e. Electronic games: One space per each three games.
 - f. Go-carts, tube boats and similar devices: One space for each three pieces of rental equipment.
 - (28) Cafeterias, nightclubs, taverns, dancehalls and lounges: One space for every 50 square feet of floor area, or one space for every four persons based upon the design capacity, whichever is greater.
 - (29) Boardinghouses, bed and breakfast establishments, and fraternal organizations: Two spaces, plus one space for each sleeping unit or resident member.
 - (30) Art galleries, museums and similar uses: One space for each 250 square feet of floor area.
 - (31) Wholesale establishments: One space for each 500 square feet of floor area.
 - (32) Contractors' yards, material yards and lumberyards: One space for each 350 square feet of floor area, plus one space for each employee working on the premises, plus one space for each company owned truck, vehicle or equipment, plus a minimum of five spaces for visitor parking.
 - (33) Retail sales of vehicles, heavy equipment and other large products: One space for each company vehicle, in addition to one space for each 350 square feet of building floor area, plus one space for each employee.
- (f) *Handicapped parking spaces.*
- (1) For parking areas with five to ten spaces, at least one handicapped space shall be provided. For parking areas with more than ten spaces, one handicapped space per ten spaces shall be provided. Handicapped parking spaces in lots having 15 spaces or more shall be a minimum of 12 feet by 20 feet and shall be permanently marked with signs restricting use to handicapped persons. On-pavement marking or portable signs shall not be used as substitutes for permanent signage.
 - (2) Each parking space for the handicapped shall be designated by its own conspicuously posted upright sign, either freestanding or wall mounted, showing the international disabled symbol of a wheelchair; it may include such wording as "disabled parking" or "handicapped parking." Each sign shall be no smaller than 12 by 18 inches. Each sign shall have its lower edge no less than four feet above grade. Signs shall be maintained in good condition. In parking lots serving nonresidential uses, barriers shall protect freestanding signs from being hit by motor vehicles. However, for any such spaces required for

dwelling parking, where the premises are required to have ten or fewer off-street parking spaces, no sign need be displayed so long as no person with need of a designated disabled parking space is a resident on the premises.

(g) *Joint use of parking facilities by schools or churches and business establishments.*

- (1) *Authorized.* Up to 80 percent of the parking facilities required by this section for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities of the following daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, or manufacturing, wholesale and similar uses.
- (2) *Conditions.*
 - a. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of such parking facilities.
 - b. The applicant shall show that there is no substantial conflict in the operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.
 - c. A properly drawn legal document, executed by the parties concerned, for joint use of off-street parking facilities, duly approved as to form and manner of execution by the village attorney, shall be filed with the village clerk and recorded with the county clerk.

(h) *Off-site parking.*

- (1) Any off-site parking which is used to meet the requirements of this article shall be a conditional use as regulated by this article and shall be subject to the conditions listed in this subsection.
- (2) Off-site parking shall be developed and maintained in compliance with all requirements and standards of this article.
- (3) Reasonable access from off-site parking facilities to the use being served shall be provided.
- (4) The site used for meeting the off-site parking requirements of this article shall be under the same ownership as the principal use being served, or under public ownership, or shall have guaranteed permanent use by virtue of a perpetual lease filed with the village clerk and county clerk.
- (5) Off-site parking for multiple-family dwellings shall not be located more than 200 feet from any normally used entrance of the principal use served.
- (6) Off-site parking for nonresidential uses shall not be located more than 300 feet from the main entrance of the principal use being used.
- (7) Any use which depends upon off-site parking to meet the requirements of this article shall maintain ownership or parking utilization of the off-site location until such time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.

(i) *Joint use of parking by businesses on adjacent property.* When it can be established by the owners that two businesses located on adjacent property operate at different hours, parking requirements may be shared jointly according to the maximum parking requirements of the two properties, provided there is a written agreement ensuring retention for such purposes and stating the hours of operation. The agreement shall be properly executed by the owners of both properties, and approved as to content and form by the village attorney and planning administrator and filed with the application for site development approval. The planning commission shall determine the extent of allowable joint use parking based on the owners' submission and staff recommendation.

(j) *Variances.*

- (1) The planning commission shall be able to grant variances from the parking requirements of this article on all buildings existing prior to the adoption of the ordinance from which this article is derived. If a preexisting building is to be expanded, then the new portion of the building shall have to meet the parking requirements of this article.
- (2) The planning commission may grant a variance of the parking requirements only where the granting of such variance is not contrary to the public interest and will avoid unnecessary hardship and serve substantial justice while meeting the spirit of this article.

(Code 1985, § 10-5-11; Ord. No. 97-05, 5-27-97; Ord. No. 97-09, § 2, 7-29-97; Ord. No. 98-01, 1-13-98; Ord. No. 99-18, 9-28-99)

Cross reference(s)—Traffic and vehicles generally, ch. 82Cross reference(s)—.

Sec. 54-79 OFF-STREET LOADING FACILITIES.

(a) *Location.*

- (1) All required loading berths shall be off-street and located on the same lot as the building or use to be served.
- (2) Except for loading berths required for apartments, no loading berths shall be located closer than 50 feet to a residential district unless within a structure.
- (3) Loading berths shall not be located within the minimum front yard building setback.
- (4) Loading berths located at the front or at the side of buildings on a corner lot shall observe the following requirements:
 - a. Loading berths shall not conflict with pedestrian movement.
 - b. Loading berths shall not obstruct the view of the public right-of-way from off-street parking access.
 - c. Loading berths shall comply with all other requirements of this section.

(b) *Screening.* Except in the case of multiple dwellings, all loading areas shall be screened and landscaped from abutting and surrounding residential uses.

(c) *Size.* Unless otherwise specified in this article, the first loading berth shall be not less than 70 feet in length, and additional berths required shall be not less than 30 feet in length, and all loading berths shall be not less than ten feet in width and 14 feet in height, exclusive of aisle and maneuvering space.

(Code 1985, § 10-5-12)

Cross reference(s)—Traffic and vehicles generally, ch. 82Cross reference(s)—.

Sec. 54-80 NONCONFORMING USES AND STRUCTURES.

- (a) Any structure or use lawfully existing upon the effective date of this article may be continued at the size and in the manner of operation existing upon such date, except as otherwise specified in this section.
- (b) Nothing in this article shall prevent the placing of a structure into safe condition when the structure is declared unsafe by the building official.

- (c) When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.
- (d) Whenever a lawful nonconforming use of a building or structure shall have been damaged by fire, flood, explosion, earthquake, war, riot or act of God, it may be reconstructed.
- (e) Whenever a lawful nonconforming use of a building or structure or land is discontinued for a period of 90 days, any future use of the building or structure or land shall be in conformity with the provisions of this article. This does not apply to residential units existing in nonresidential zones.
- (f) Subject to the provisions of section 54-181 et seq., pertaining to signs, as amended from time to time, normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary structural repairs, provided such structural repairs do not enlarge or intensify the nonconforming use unless they meet the provisions of this section.
- (g) If no structural alterations are made, any nonconforming use of land or a building or structure may be changed to another nonconforming use provided that the planning commission makes a finding in the specific case that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. The planning commission may require appropriate conditions and safeguards in accordance with the purpose of this article.
- (h) Alterations and additions may be made to a structure or building containing lawful nonconforming residential units when they will improve the liveability thereof, provided they will not increase the number of dwelling units. Nonconforming residential units shall be subject to the appropriate residential setbacks and restrictions.
- (i) A maximum expansion of 25 percent of the ground or floor area of a legally nonconforming use may be permitted one time by the planning commission. The expansion of a nonconforming use shall be approved if and only if, in the circumstances of the particular case and under the conditions imposed, the applicant shows that:
 - (1) The expanded use will not significantly interfere with the enjoyment of other land in the vicinity.
 - (2) The expanded use will not significantly damage surrounding structures or activities.
 - (3) The expanded use is consistent with the spirit of this article, substantial justice, and the general public interest.
 - (4) The owner will experience unnecessary hardship, and in addition will be denied a continued reasonable use of the property, if the expansion is not approved.
 - (5) The expansion does not exceed 25 percent of the floor or ground area in nonconforming uses on the site at the time it became nonconforming.

The planning commission shall hold a public hearing to consider applications for expansion of a nonconforming use in accord with the provisions of section 54-61(f).

- (j) Existing lots.
 - (1) At the time of the enactment of the ordinance from which this article is derived, if an owner of a plot of land consisting of one or more adjacent lots in a subdivision of record does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements or does not have sufficient lot width to conform to the minimum lot width requirements, such plot of land may nevertheless be used as a building site. The dimensional requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit a structure of acceptable size to be built upon the lot, such reduction to be determined by the planning commission.
 - a. In the R-1, R-2 and M-1 zones, the reductions shall permit only a single-family residence. In M-2 zones, a mobile home shall be less than 18 feet in width.

- b. In the R-3 zone, the reduction shall permit only a duplex.
 - c. In the R-4 zone, the reduction shall permit only a townhouse cluster or apartment containing no more than four units.
- (2) No lot, even though it may be part of one or more adjacent lots in the same ownership at the time of passage of the ordinance from which this article is derived, shall be reduced in size so that lot width or size of yards or lot per area per family or any other requirement of this article is not maintained. This subsection shall not apply when a portion of a lot is acquired for a public purpose.

(Code 1985, § 10-5-13)

Sec. 54-81 MISCELLANEOUS PERFORMANCE REQUIREMENTS.

- (a) *Glare and lighting.*
 - (1) Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent lightbulbs shall not be permitted in view of adjacent property or public rights-of-way. Any light or combination of lights which causes light on a public street, other than lights specifically intended for that purpose, shall not exceed one footcandle (meter reading) as measured from the centerline of the street. Any light or combination of lights which casts light on residential property shall not exceed four footcandles (meter reading) as measured from the property.
 - (2) No light which is flashing, revolving or otherwise resembles a traffic control signal shall be allowed in any area where it could create a hazard for passing vehicular traffic.
- (b) *Surface water ponding.* Natural impoundment shall be retained as much as possible or, if necessary, enlarged or modified as directed by the Public Works Department to reduce the off-site runoff.
- (c) *Trash and garbage incinerators; storage of trash or garbage.* No exterior incineration of trash or garbage is permissible. No exterior storage of trash or garbage is permissible except in an accessory building enclosed by walls and roof or enclosed containers within a totally screened area, except for single-family and duplex residential uses.
- (d) *Public street frontage.* Except as otherwise allowed or required by this article, no lot shall contain any building unless such lot abuts, for at least 50 feet, on a public street.
- (e) *Clear sight triangles.*
 - (1) An area of unobstructed vision at street intersections, entrances and exits, permitting a vehicle driver to see approaching vehicles to the right or left, shall be maintained. Nothing over 30 inches in height, measured from the street centerline grade, shall be permitted to obstruct a sight line triangle area. The sight line triangle shall be bounded by lines measured 30 feet along the front and side street lines of a corner lot from the intersection of the property lines of such lot and a line connecting points 30 feet distant from the intersection of the property lines of such lot. Any existing trees located within the clear sight triangle may be allowed to remain if all branches are trimmed to a height of eight feet.
 - (2) No post or column within the designated triangle shall exceed 12 inches in thickness at its greatest cross-sectional dimension.

(Code 1985, § 10-5-14; Ord. No. 2011-11, 6-12-11)

Sec. 54-82 NOISE ABATEMENT AND EMISSION CONTROL.

All uses shall be constructed and operated to ensure that there is no excessive noise, vibration, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the parcel on which the use is located. For purposes of this section, excessive is defined as to a degree exceeding that caused in their customary manner of operation by uses permitted in the I-1 district, to a degree injurious to the public health, safety or welfare, or to a degree in which it is a nuisance by reason of excessiveness.

(Code 1985, § 10-5-15)

Cross reference(s)—Noise generally, § 38-31Cross reference(s)— et seq.

Sec. 54-83 LOT NUMBERING.

- (a) *Short title.* This section shall be known as the Road Naming and Site Addressing System for the Village of Ruidoso, New Mexico.
- (b) *Applicability.* This section shall apply to parcels and tracts of land, within the incorporated areas of the village.
- (c) *Definitions.*

Address management system (AMS). Address management system (AMS) offices of the United States Postal Service (USPS) each serve several regional post offices. Their primary purpose is to maintain official records of valid mailing addresses for their region. In addition to maintaining current records of valid mailing addresses, AMS offices also review and approve address changes for adherence to USPS standards.

ADDRESS MANAGEMENT SYSTEMS
UNITED STATES POSTAL SERVICE
THERESA GONZALES

1135 BROADWAY NE - ROOM 221

ALBUQUERQUE, NM 87101-9321

505-346-8019

Address number. The numeric designation for an addressable structure or unit. e.g.: If 101 Main St is the site address, 101 is the address number.

Address placard. An individual address plate identifying the address number of a structure.

Addressable structures or units. Generally, the habitable or occupied structures(s) on a lot, parcel or tract.

Addressing committee. A committee composed of members from the community development department, the village fire department, the village police department, public works department, code enforcement and emergency management. This committee will be responsible for changes to new and existing addresses and road names.

Building permit. A permit issued by the village and/or the division of manufactured housing before any construction activity can commence.

Directional. A maximum of two letters within an address that consists of any combination of the cardinal directions of North, South, East, West.

Driveway. A means of vehicular access, beginning at the property line of a lot abutting a public road, private road, access easement, or private right of way, that provides access to a building or structure on that lot.

Homonym. Road names that have identical or phonetically similar names.

Inconsistent site address or road name. A site address or road name that causes confusion to or hinders the efficient operation of the post office or delivery service, fire response agency, emergency medical service or law enforcement agency serving the village (e.g. duplicate road names, road signage discrepancies, address numbers or ranges that are out of sequence).

Lot. A lot, parcel or tract of land created by legal conveyance of said lot, parcel or tract; a lot, parcel or tract shown on a subdivision plat which was approved and recorded, according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by approval of the village in conformance with subdivision regulations in effect at the time of approval.

Mailing address. The address to which mail from the U.S. Postal Service is sent.

Private road. Any road not included in a right of way dedicated to the public.

Public road. Any road included in a right of way dedicated to the public.

Road. A general term denoting a public or private way used for access to four or more lots, parcels, or tracts of land, including the entire area within the right of way and/or access easement.

Site address. A property identification comprised of an address number, a directional, a road name, a road type, and a unit number if applicable.

Subdivision. All types of land divisions subject to the village subdivision and land use codes.

Village addressor. Person(s) designated by the village manager to administer the village road naming and site addressing system.

(d) *Road naming and site addressing system requirements.*

(1) *General.*

a. *Addressable structures or units.*

1. All new addressable structures or units shall be assigned a site address by the village addressor. A site address is allotted every 100 feet of parcel frontage.
2. Existing addressable structures or units that do not have a site address shall be assigned a site address by the village addressor.
3. The site address of existing addressable structures or units that have an inconsistent site address shall be changed when necessary by the village addressor.
4. The state construction industries division and/or village community development department shall not issue a building permit to any lot, parcel, or tract of land subject to this section until after the village addressor has assigned a site address.
5. No person or utility company shall install or cause to be installed any utility service, including, but not limited to, electric, gas, water, sewer, telephone or cable television to any building required by this section to be assigned an address without first receiving an address from the village addressor.

b. *Roads.*

1. New roads shall be assigned a road name approved by the village governing body.
2. Existing roads without a name shall be assigned a road name approved by the village

governing body.

3. Existing roads with inconsistent road names shall be renamed when necessary by the village addresser and approved by the village governing body.

c. Display of address numbers and road name signs.

1. Address numbers shall be displayed, where the driveway meets the road, on every addressable structure. Commercial address placard placement shall be approved by the addressing committee staff prior to installation.
2. The village standard road name signs shall be required at all road intersections on private and public roads.

d. Assignment or modification of address numbers or road names.

1. The village addressing committee shall be responsible to assign or modify address numbers or road names.

e. *Ownership of road name signs.* All road name signs required by this section shall be the property of the village. No one shall willfully destroy or remove any such road name signs.

(2) *Road naming.*

a. New road names.

1. The final plat for all new lots, including new subdivisions, shall not be recorded until the addressing committee has reviewed and accepted the names of all roads.
2. All public or private roads, including private access easements, that serve more than four parcels shall be named, have road name signs, and have address ranges calculated.
3. Driveways shall not be assigned road names. The site address will include the name of the public or private access road with which the driveway intersects.
4. The village's assignment of a road name shall not constitute or imply acceptance of the road into the village road maintenance program.
5. The road name shall not be a proper name or family surname, unless historically significant.
6. Road names shall not use corporate trade names unless coincidental.
7. Upon adoption of this section, road names shall not be duplicated within the village or surrounding communities.
8. Road names should not be inconsistent, possibly hindering the operations of any of the following agencies: post office or delivery service, fire response agency, emergency medical service, or law enforcement agency serving the village.
9. Adjectives may be duplicated in a road name as long as they are not duplicated in the same subdivision (e.g. Red Stone Road and Red Fox Road).
10. Homonyms/phonetic duplications of road names are prohibited (e.g., Maple Trace Road and Maple Chase Lane).
11. Road names shall not include obscene, racial, and/or derogatory terms.
12. Because North, South, East and West are directional features of the addressing system and lead to confusing addresses if included as part of the name, cardinal directions shall not be part of any road name (e.g., Westover Road or Southwick Dr are not acceptable).

VOR example North Loop Rd. Acceptable abbreviations for cardinal directions are N, S, E, and W or some combination thereof to represent direction.

13. Numbers shall not be used in road names except for those used in state or federal road systems.
14. Continuous roads must retain the same road name and cannot change at intersections.
15. The names of state and federal highways are assigned based on their state or federal highway number. If any given section of a road has multiple designations, e.g.: State and a federal highway number or two federal highway numbers, the following hierarchy shall be used within the village addressing/road naming system:

- (i) Federal highway number (lowest federal highway number takes precedence if more than one.
- (ii) Forest service roads.
- (iii) State highway number (lowest state highway number takes precedence if more than one.

16. Abbreviations used for road name prefixes and suffixes must be compliant with the United States Postal Service (e.g. N, S, E, W, DR, BLVD, ST, AVE). This list of abbreviations is in the office of the village addresser. The following suffixes will not be used: Drive, boulevard, street or avenue.
17. The main title of a road name shall not be abbreviated (e.g., Mount Shasta Dr NOT Mt. Shasta Drive)

- b. *Renaming existing road names.* The standards listed in subsection (d)(2)a., apply when existing roads are renamed except as follows:

1. Historically significant road names shall be retained where feasible. The desire to maintain these road names to commemorate local history will be balanced with the goal of making road names easy to use by citizens, visitors, and service providers.
2. Road names governed by this section shall not be duplicated with the village.
3. If two existing roads have duplicate names, one road name must be changed. If it cannot be determined or verified which road used the name first, the road with fewer addressable structures or units shall be renamed.
4. The village addresser may initiate a change to an existing road name if necessary pursuant to subsection (d).

(3) *Road name signs.*

- a. Road name signs for roads that are maintained by the village.

1. Road name signs are required on all public roads that are maintained by the village. These signs shall be displayed at all road intersections in the village.
2. The composition, size and height of road name signs on village maintained roads must comply with the village road standards.
3. Letters on road name signs, on village maintained roads, shall be a standard size of four-inch high letters and have a green background with white letters, unless in an approved historic district, where brown background with white letters shall be used.
4. The signs shall be placed at a standard height of seven feet from the ground level when

mounted and shall consist of a U-channel posts and breakaways.

5. Road name signs shall be placed in the right-of-way. The location of road name signs must not obscure any potential traffic hazard. At any location where the typical placement of a sign interferes with a safe sight distance, an alternate location shall be found.
 6. Only those road name signs assigned and approved by the addressing committee are allowed at roadway intersections. The village may remove any road name sign displaying unapproved road names or road name signs that do not comply with the village road standards.
 7. Personal signs that are similar to village signs, or any other type of sign that may cause confusion, may not be placed within 200 feet of any road right-of-way.
 8. The funding, manufacture, and installation of village standard road name signs on village maintained roads shall be the responsibility of the village except as in subsection 10. below.
 9. The ongoing maintenance of village standard road name signs on village maintained roads shall be the responsibility of the village.
 10. Road name signs for new and existing public roads in all subdivisions, claims of exemption, or any other plat(s) approved by the village, including land plans, shall be installed, paid for by the developer (purchased through the village addresser, at village's costs), and maintained, including all road name signs that must be changed or added between the location of the subdivision and the village road or state/federal highway providing access to the subdivision.
- b. Road name signs for roads that are privately maintained.
1. Road name signs are required on all roads that are privately maintained. These signs shall be displayed at all road intersections in the village.
 2. The composition, size and height of road name signs on privately maintained roads must comply with the village road standards.
 3. Letters on road name signs on privately maintained roads shall be a standard of four-inch high letters and have a blue background with white letters, unless in an approved historic district, where brown background with white letters shall be used.
 4. The signs shall be placed at a standard height of seven feet from the ground level when mounted and shall consist of U-channel posts and breakaways.
 5. The location of road name signs must not obscure any potential traffic hazard. At any location where the typical placement of a sign interferes with a safe sight distance, an alternate location must be found.
 6. Only those road name signs assigned or approved by the addressing committee are allowed at roadway intersections. The village may remove any road name signs displaying unapproved road names or road name signs that do not comply with the village road standards.
 7. Personal signs that are similar to village signs, or any other type of sign that may cause confusion, may not be placed within 200 feet of any road right-of-way.
 8. Village standard road name signs are required on roads not maintained by the village.
 9. The funding, manufacture, and installation of all new village standard road name signs required as a result of this section on privately maintained roads will be the responsibility of the property owners using the road.

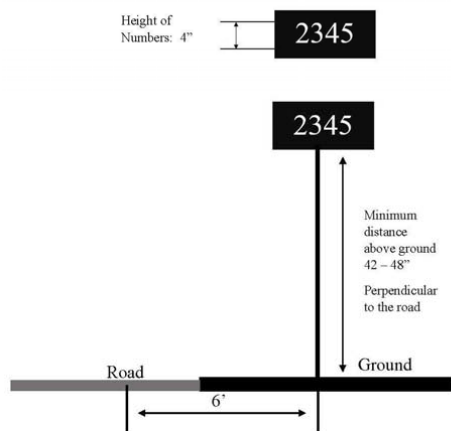
10. The costs associated with ongoing maintenance for the village standard road name signs on privately maintained roads will be the responsibility of the property owners using the private road.
11. Road name signs for new and existing private roads in all subdivisions, claims of exemption, or any other plat(s) approved by the village, including land plans, shall be installed, paid for by the developer (purchased through the village addresser, at village's costs), and maintained, including all road name signs that must be changed or added between the location of the subdivision and the village road or state/federal highway providing access to the subdivision.

(4) *Address numbers.*

- a. Assignment of an address number to new addressable structures or units on existing lots.
 1. All new addressable structures or units on all exiting platted lots, unplatted tracts/parcels, and tracts/parcels developed by metes and bounds shall be assigned site addresses only after the property owner/developer has made a final determination of the driveway/access point and is ready to apply for a building permit.
 2. Before a building permit is issued, a driveway location and permit must be obtained from the village street department and a site address must be assigned by the village addresser.
 3. Only one address per parcel will be issued. If more than one residence is on a single parcel, the owner will be given a master number (i.e., 100 Main Road) and the owner/developer must assign numbers (i.e., 100 Main Road #2) to each residence and provide the numbers and a map showing the location of each residence to the village addresser.
 4. Addresses will be issued to improved parcels. Vacant parcels or lots will be assigned for village purposes but are subject to change when parcel or lots are developed, and driveway/access point is determined.
- b. *Display of address numbers.* All owners of addressable structures or units shall establish and display their assigned address number in conformity with the following standards:
 1. The address placard shall be double-sided, numbers placed in a horizontal position, a standard of three inches high reflective numbers, have a black background with white numbers, and be displayed facing the roadway where the driveway meets the road, no more than six feet from the road, perpendicular to the road on a post four feet to bottom of sign from road level.
 2. Any address number associated with an incorrect site address shall be removed and replaced with the correct number by the property owner within 45 days of notification of the correct address by the village addresser. The village will provide the first address placard to the property owner and will install it free of charge. Damaged or placards needing replacement shall be the responsibility of the owner to purchase, install, and maintain. Failure to comply with this ordinance may result in a fine as defined in section 1-6 of the Village Code.
 3. See diagram below for placement example:

HOW TO DISPLAY ADDRESS NUMBERS

SO THEY CAN BE SEEN AT NIGHT – BY POLICE, FIRE, AND RESCUE PERSONNEL
COMING FROM ANY DIRECTION



IF YOUR HOUSE IS NOT VISIBLE OR IS TOO FAR FROM THE ROAD FOR NUMBERS
TO BE SEEN AT NIGHT, DISPLAY YOUR ADDRESS AT BOTH THE DRIVEWAY
ENTRANCE AND ON YOUR HOUSE. ESPECIALLY IF SHARING A DRIVEWAY.

ADDRESS PLACARD MUST BE **PERPENDICULAR** TO THE ROAD
AND VISABLE FROM BOTH DIRECTIONS

- (e) *Site address and/or road name assignment and modification.*
- (1) *Property owner-initiated.* Any property owner may initiate a change to an existing road name for public or private road that provides vehicular access to his/her property through the following procedures:
- Property owners (petitioners) must contact the village addresser to request procedures and application materials for a road name change.
 - Petitioners must complete the appropriate form and indicate the reason for the requested road name change. The petitioners shall list three or more desired names ranked in their order of preference on the form. At least 75 percent of property owners with land taking vehicular access from the road must agree to the road name change by signing the form and indicating their property parcel identifier(s).
 - Petitioners shall submit the completed form to the village addresser. The village addresser will verify the information supplied on the form. The addressing committee will approve one of the suggested road names, provided it is in accordance with the road naming requirements, the change will not impair the intent and purpose of this section, and the new site address has been approved by the address management system.
 - If the form is not completed properly, or if the proposed road name does not meet these requirements, the village addresser will notify the petitioners that their request has been denied, list reason(s) for denial, and provide information describing additional action

required.

- e. If the location of the subject road is not yet field verified and digitized, the village will map the road prior to acting on the petition.
- f. The recorded original plat will not reflect changes to road names. The owner's deed need not be corrected at the time of the road name change. When the property is sold, the property owner should reflect the new road name on the deed. The change may be reflected on the deed as follows:

Street address: 2000 XYZ Road, formerly known as 2001 ABC Road

- g. Owners of property taking vehicular access along the road with the changed name are responsible for the cost of as many road name sign(s) as are required by the village road standards and the cost of installation thereof. When the petition is submitted, full name and billing information (mailing address, physical address, and phone number) for one petitioner must be left with the village for the purpose of billing for the costs of signs and installation.
 - h. A bill covering the costs for the road name signs and installation will be sent to the individual listed within the billing information on the petition, along with the village addresser's preliminary approval of road name change.
 - i. Final approval for the road name change is contingent on acceptance by the addressing committee and full payment of the bill covering the costs for the road name signs and installation.
 - j. The village will commence installation of the road name signs once the bill for the signage costs has been paid in full and final approval of the road name change has been given by the village addresser.
 - k. The village will be responsible for the manufacture, installation, and maintenance of road name sign(s) only on those signs where the roads are maintained by the village. On privately maintained roads, it is the responsibility of the property owners to call the village addresser for replacement signs. Costs for signs, posts and/or hardware will be the responsibility of the property owners.
- (2) *Village-initiated.* The village shall balance the need to modify existing address numbers and/or road names for compliance with this section and postal standards with the desire to retain existing address numbers and/or road names where possible. The village may initiate one or more of the following: the naming of an unnamed road, the modification of an existing road name, the assignment of an address number to an unaddressed structure or unit, or the modification of an existing address number through the following procedures:
- a. Where the village addresser is proposing to name or rename a road. The village addresser shall complete the appropriate form describing the proposed road name assignment or change and listing three pre-approved road names on the form. The village addresser will mail the form to the affected property owners. Affected property owners include those persons whose land has vehicular access to the road proposed to be named or renamed.
 - 1. The form will encourage affected property owners to hold a neighborhood meeting to try to reach consensus on one of the pre-approved road names listed on the form or on a different road name that complies with this section.
 - 2. No later than 45 days from the date on the form, each property owner may state his/her preferred road name by completing, signing and returning the form to the village

addresser.

3. The addressing committee will approve the new road name based on the name selected by the majority of property owners on the forms completed and returned by the property owners. In the event of a tie vote or in the event no property owners return the form, the addressing committee shall select the road name at their sole discretion.
4. Changes to site addresses, which include changes to road names where addressable structures or units exist, are subject to approval by the United States Postal Service Address Management System (AMS). If a site address is not approved, then the above steps will need to be repeated until the address management system approval is attained.
5. After site addresses have been approved by the address management system, the village addresser will send a site address notification letter to affected property owners. At this time, the village addresser will notify property owners of any site address changes or road name changes.
6. The village will be responsible for the manufacture and installation of road name sign(s). The village will be responsible for maintenance only on village maintained roads. On private roads, the property owners using the road will be responsible for contacting the village addresser for replacement signs and for payment of the sign(s).

b. Where the village addresser is proposing to assign or change an address number:

1. The assignment of the address number is not subject to the property owners' approval.
2. After new site addresses have been approved by the address management system, the village addresser will send a site address notification letter to affected property owners.

(f) *Appeals.* Affected property owners may appeal the decision of the village addressing committee within 15 days of the decision to the planning commission. The planning commission's decision may be appealed to the village council. Appeals must be received in writing in accordance with section 54-62, appeals to council.

(g) *Compliance and enforcement.*

- (1) All provisions of this section may be enforced by any legal or equitable means recognized by the New Mexico Revised Statutes and New Mexico Court Rules, as amended. In addition to any other remedies that may be recognized in law or equity, for any unlawful use or development, the village may:
 - a. Deny and withhold all permits, certificates or other forms of authorization to use or develop any land, structure or improvements thereon. This provision applies whether or not the current owner is responsible for the violation.
 - b. Revoke any development permit or other authorization if it determined there is a departure from the approved plans, specifications or conditions of approval or the development permit was obtained by false representation or issued in error. Written notice of revocation must be served upon the owner, the owner's agent or the owner's contractor to whom the permit was issued or the notice may be posted in a prominent location at the place of the violation.
 - c. Initiate injunction or abatement proceedings or other appropriate legal action in district court or other court having jurisdiction against any person, firm, corporation or entity who fails to comply with any provision of this section or any requirements or conditions imposed under this section.
 - d. Seek a court order in the nature of mandamus, abatement, injunction or other action to

abate or remove a violation.

- e. Withhold all public road improvements and public maintenance from all rights-of-way that have not been accepted for those purposed by the planning and zoning commission.

(2) All remedies provided for violations of this section are cumulative.

(Code 1985, § 10-5-16; Ord. No. 2020-05 , §§ 1—7, 8-11-20)

Sec. 54-84 LOTS NOT SERVED BY PUBLIC WATER OR SEWER SYSTEMS.

- (a) Lots not served by public water or sewer systems may not be developed unless approved by the environmental improvement division of the state health and environment department and the planning commission.
- (b) Lots not serviced by public water and sewer systems shall conform to required minimum lot sizes, required minimum setback distances and such other standards as are required by the environmental improvement division of the state health and environment department and the planning commission.

(Code 1985, § 10-5-17)

Cross reference(s)—Utilities, ch. 86Cross reference(s)—.

Sec. 54-85 RECREATIONAL VEHICLE PARKS.

- (a) *Conditional use permit required; occupancy of recreational vehicles.* A conditional use permit is required for all recreational vehicle park developments and is intended to provide for the development of recreational vehicle parks at standards consistent with the health, safety and welfare of the village. Recreational vehicle parks are permitted by conditional use permit only in C-2 districts. Recreational vehicles, as defined in section 54-31, when used for living purposes, shall be located solely in recreational vehicle parks.
- (b) *General requirements.*
 - (1) *Access; minimum area.* Recreational vehicle parks shall abut and have access from major arterial streets and shall be a minimum of two acres.
 - (2) *Utilities.* Water, sewer, electricity, telephone and other necessary utilities shall be available at the recreational vehicle park, and placement shall be approved by the planning commission.
 - (3) *Driveways.* Access and interior driveways shall be designed to increase ease of access, increase privacy and provide safety. Placement shall be approved by the planning commission.
 - (4) *Density of spaces.* The density of spaces in any recreational vehicle park shall not exceed 20 spaces per acre.
 - (5) *Setbacks.* Setbacks shall be the same as for other permitted uses in a C-2 district.
- (c) *Development standards.*
 - (1) *Size of spaces.* Spaces for recreational vehicles shall be a minimum of 1,500 square feet, with minimum dimensions of 30 feet by 50 feet.
 - (2) *Pads.* Recreational vehicle pads shall be a minimum of 14 feet by 35 feet, and shall be paved with asphalt or other all-weather surface.

- (3) *Setbacks within spaces.* Setbacks within the recreational vehicle space shall be a minimum of eight feet in the front, and five feet in the side and rear.
- (4) *Landscaping.* A landscaping concept plan shall be approved by the planning commission for all areas not covered by structures or paved.
- (5) *Screening.* Screening of the perimeter of a recreational vehicle park by a wall and/or other approved landscaping shall be required.
- (6) *Arrangement of spaces and accessways.* Private accessways and individual space arrangements shall be designed to accommodate frequent movement of recreational vehicles.
 - a. Interior streets shall be a minimum of 20 feet for one-way traffic and 27 feet for two-way traffic, and shall be paved with asphalt, concrete or crushed rock.
 - b. The street layout shall be designed for preservation of natural features and to follow topography to the greatest extent possible.
- (7) *Recreational area.* There shall be active recreational area for tenants, comprising not less than seven percent of the gross site area, which shall not include required setback areas.
- (8) *Community building.* There shall be a community building which shall provide for recreational and service needs of occupants of the recreational vehicle park. It shall include restrooms, showers and a laundry. No dry cleaning shall be permitted in the recreational vehicle park. The community building may not be included as part of the required recreational area.
- (9) *Refuse collection facilities.* Adequate refuse collection facilities shall be provided, constructed and maintained in accordance with all village health regulations, and shall be screened and designed to bar animals from access to refuse. Refuse shall be removed from collection sites at least once a week.
- (10) *Lighting.* Lighting shall be provided to illuminate accessways and walkways for the safe movement of vehicles and pedestrians at night.
- (11) *Sewage disposal.* An approved means for emptying sewage holding tanks shall be provided.
- (12) *Expansion of existing parks.* Expansion of existing recreational vehicle parks shall be in accordance with provisions of this section.
- (13) *Caretaker's residence.* One mobile home may be placed in the recreational vehicle park for use by a caretaker.

(Code 1985, § 10-5-18)

Sec. 54-86 ARCHITECTURAL DESIGN STANDARDS.

- (a) *Purpose; objectives.* The architectural design standards set forth in this section are intended to encourage innovative design with a reasonable degree of freedom of choice while showing a concern for visual amenities and preserving the special qualities inherent in the village that attract tourists and residents alike and that are the basis of the village's economic stability and growth. Objectives of architectural design standards are to:
 - (1) Protect property;
 - (2) Maintain the high character of community development; and
 - (3) Protect real estate from impairment or destruction of value.

- (b) *Definitions.* As used in this section, the following terms shall have the meanings designated in this subsection:
- (1) *Accessory building* is as defined in section 54-31.
 - (2) *Enamel* means a glassy, opaque substance fused to metal as a protective coating.
 - (3) *Exposed* means open to view.
- (c) *Metal siding; cinderblock and cement.* Exposed metal siding, cinderblock and cement on buildings are permitted in all districts with the following limitations:
- (1) Exposed cinderblock and cement walls on structures or portions of structures are permitted in all districts.
 - (2) A planning official may approve metal siding on structures in all districts upon finding that:
 - a. Such siding is characteristic of building types within the area; and
 - b. Metal siding is permitted in residential districts as follows:
 - I. On mobile homes permitted by this Code;
 - II. On residences and accessory structures, except that raised rib metal, v-rib metal, R-panel siding types are prohibited;
 - III. On prefabricated storage structures meeting the requirements of subsection 54-92(d)(3) and provided that the storage structure does not exceed 120 square feet.

(Code 1985, § 10-5-19; Ord. No. 96-15, 9-10-96; Ord. No. 99-02, 3-30-99; Ord. No. 2019-02, 3-12-19)

Sec. 54-87 APPROVED STRUCTURES.

- (a) Use of property permitted by this article shall be conducted from or within a permanent structure conforming to the requirements in section 22-31(a) of the Ruidoso Code for the use or uses to be conducted in the respective zone district, unless approved as a mobile vending stand pursuant to subsection (b) of this section or unless approved under subsection 54-100(c)(24) allowing use of fiber or membrane tent in a C-2 zone district.
- (b) Mobile vending stands are expressly prohibited except when licensed and approved in C-2 and C-3 zone districts as a conditional use or where use is temporary and operated in connection with special community and civic events which have been licensed and approved by the village under section 26-69 and the operation is limited to the approved location and jurisdiction for such event.

(Code 1985, § 10-5-20; Ord. No. 97-12, § 3, 7-29-97; Ord. No. 2017-07, § 3, 6-13-17)

Sec. 54-88 URBAN-WILDLAND INTERFACE CODE ADOPTED; AMENDMENTS.

- (a) *Adoption of Urban-Wildland Interface Code.* There is hereby adopted by the Village of Ruidoso for the purpose of prescribing regulations mitigating the hazard to life and property from intrusion of fire from wildland fire exposures, fire exposures from adjacent structures and prevention of structure fires from spreading to wildland fuels, that certain code known as the Urban-Wildland Interface Code (U/WIC)

published by the International Fire Code Institute, being particularly the 2000 edition thereof and the whole thereof, including all amendments thereto and all future editions thereof, save and except such portions as are hereinafter deleted, modified or amended by this ordinance. The same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the jurisdiction of the Village of Ruidoso, as provided by law.

- (b) *Establishment and duties of code official.* The U/WIC as adopted and amended herein shall be enforced by the planning director or his designee. In areas of overlapping jurisdictions, appropriate sections shall be enforced by either the planning director, director of forestry, or the fire chief, as applicable.
- (c) *Amendments to the U/WIC.* The U/WIC adopted herein is amended as follows: Section 504.3 is amended to read: Combustible eaves, fascias and soffits shall be enclosed. Any exposed material must be a minimum of one-hour-rated fire-resistive material. Appendix I-C is replaced with a new Fire Hazards Rating Form which shall reflect the standards in subsection (g) below. Appendix I-B is repealed and in its place shall be adopted the Fuels Management Standards of the Village of Ruidoso found in section 42-80 of this Code.
- (d) *Appeals.* Whenever the code official disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the code official to the planning and zoning commission and thereafter to the governing body and district court, all as provided in this chapter.
- (e) *New materials, processes or occupancies which may require permits.* The planning administrator, the building inspector, director of forestry, and the fire chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in said code. The planning administrator shall post such list in a conspicuous place at the planning department and distribute copies thereof to interested persons. Fees shall be assessed in accordance with the provisions of this section or shall be as set forth in the fee schedule of this code.
- (f) *Enforcement.* The provisions of the U/WIC shall be enforceable according to the provisions of this chapter.
- (g) *Fuels Management Requirements (section 42-80 of this Code) and the site related portion of the Fire Hazard Rating Form (section 42-81 of this Code) must be assessed BEFORE issuance of a building permit.*
 - (1) Volume of forest debris to be removed from the building site (footprint) shall be assessed by the director of forestry. applicant shall either pay the fees set forth in Appendix A to this Code or make other disposal arrangements as approved by the director of forestry.
 - (2) For sites located within village limits, forest material, including tree stumps, that will be picked up by the village solid waste department; must be placed at curbside or alternate approved locations. Stumps must be piled separately from branch and trunk material.
 - a. Complete removal and disposal of tree stumps is the responsibility of the permittee.
 - b. If outside the village, see subsection 54-133(f).
 - (3) Fuels Management Standards (section 42-80) shall be completed and inspected prior to issuance of a certificate of occupancy or re-certification of the site plan.

(Ord. No. 2002-04, 6-25-02; Ord. No. 2004-02, 5-11-04; Ord. No. 2007-09, 9-11-07)

Sec. 54-89 — 54-180. RESERVED.

Commented [CG16]: Do we want reserved sections at the end of each division?

DIVISION 8: SIGNS

Sec. 54-181 PURPOSE OF DIVISION.

- (a) The purpose of this division is to protect and promote the general welfare, health, safety and order within the village through standards, regulations and procedures governing the erection, use and/or display of devices, signs or symbols serving as visual communicative media to persons situated within or upon public rights-of-way or properties. The regulations set forth in this division are intended to preserve the special qualities inherent in the village that attract tourists and residents alike, and that are the basis of the village's economic stability and growth.
- (b) The provisions of this division are intended to encourage creativity, a reasonable degree of freedom of choice, an opportunity for effective communication and a sense of concern for the visual amenities on the part of those designing, displaying or otherwise utilizing needed communicative media of the types regulated by this division, while at the same time ensuring that the public is not endangered, annoyed or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of such communicative facilities.

(Code 1985, § 10-6-1; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-182 DEFINITIONS.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sign means any display to the public view of letters, numerals, emblems, logos or any parts or combination thereof, designed to inform, advertise or promote merchandise, services or activities. Sign content shall pertain only to the business, industry or pursuit conducted.

Signage means the eligible area allowed.

(Code 1985, § 10-6-2; Ord. No. 97-07, § 1, 7-29-97)

Cross reference(s)—Definitions generally, § 1-2Cross reference(s)—.

Sec. 54-183 PERMIT REQUIRED.

All signs erected within the village must be reviewed and approved by the appropriate officer of the village prior to being placed on any building, pole or other structure, except as otherwise provided in this division. Permits shall be issued for all approved signs and shall be maintained on the premises where the sign is displayed, except that permits for off-premises signs shall be maintained on the premises of the permittee. Failure to obtain a sign permit is a violation of this division.

(Code 1985, § 10-6-3; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-184 ENFORCEMENT OFFICERS.

This division shall be enforced by any employee designated by the village manager.

(Code 1985, § 10-6-4; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-185 APPLICATION FOR PERMIT.

The application form for a sign permit shall be obtained from the enforcement officer and shall require the following information:

- (1) The name and address of the owner of the sign.
- (2) The name of the business and the location of the sign (address).
- (3) A drawing of the sign, indicating size, materials, texture and finish and illumination to be used.
- (4) A site plan showing where the sign will be located on the premises, as well as all other signs existing on the premises.
- (5) Indication on the site plan of the location of buildings on the site and the dimension and area of building frontages.
- (6) Written consent of the owner of the building, structure or land on which the sign is to be erected.
- (7) Any electrical permit required and issued for such sign.
- (8) The contractor's name, address and license number, where applicable.

(Code 1985, § 10-6-5; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-186 RESPONSIBILITIES OF THE PERMITTEE.

- (a) It is the responsibility of the permittee to comply with all provisions of this division and sections 54-37 and 54-38, as may be applicable.
- (b) It is the responsibility of the permittee to be aware of and obtain any license, permit and/or inspection required under the Construction Industries Licensing Act, NMSA 1978, §§ 60-13-1 to 60-13-59, or the construction industries division rules and regulations of the state. Enforcement of any such rules or regulations shall be by the appropriate state inspectors.

(Ord. No. 97-07, § 1(10-6-6), 7-29-97)

Sec. 54-187 INSPECTIONS GENERALLY.

The building inspector shall inspect, as he deems necessary, and subject to section 54-186, each sign regulated by this division for the purpose of ascertaining whether such sign is secure or insecure, or in need of repair and for compliance with the requirements of this division. The applicant must call for final inspection on all signs permitted pursuant to this division.

(Code 1985, § 10-6-7; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-188 APPEALS.

- (a) Any sign permit application which is rejected, for any reason, by the enforcement officer may be appealed to the planning commission. The applicant shall submit, in writing, a request to be placed on the planning commission agenda within five working days of the rejection. The appeal will be scheduled for the next planning commission meeting, provided the planning commission agenda deadline has not passed, in which event the matter will be scheduled for the next regularly scheduled planning commission meeting.
- (b) Any denial by the planning commission may be appealed to the council by submitting a written request to the village clerk within 15 days of the rejection.

(Code 1985, § 10-6-8; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-189 PERMIT FEE; INVALID PERMITS; INSPECTION UPON COMPLETION OF CONSTRUCTION.

- (a) The fee for a sign permit for permanent signage shall be set from time to time and is listed in the fee schedule in appendix A to this Code.
- (b) The fee is due at the time the application is approved.
- (c) A sign permit shall be issued at the time the fee is paid.
- (d) The fee shall be waived where only change of copy is being made for an existing business.
- (e) A sign permit shall become null and void:
 - (1) If the sign for which the permit was issued has not been completed and erected within a period of six months after the date of the permit.
 - (2) Thirty days after a business closes or ceases to operate if no new business is established at that location. It shall be the responsibility of the owner of the building to see that any sign is removed which pertains to a business which has closed.

If the owner does not remove signs as provided under section 54-193, the enforcement officer will follow the procedures outlined in section 54-195 to effect removal.

- (f) Subject to the provisions of section 54-187, final inspection is required on completion and installation of all signs to determine that the sign conforms to the permit issued pursuant to the provisions of this division. The sign permit applicant is responsible for obtaining final inspection, and failure to do so will constitute a violation with penalties as prescribed under section 54-38(d).

(Code 1985, § 10-6-9; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-190 GENERAL REGULATIONS.

- (a) *Moving of signs; changing copy.* Moving an approved sign to a new location or changing copy on an existing sign shall require a new permit, except for signs with movable letters as described in section 54-191(a)(7). The appropriate enforcement officer shall be notified prior to the move or change in order to:
 - (1) Ascertain that the sign meets the conditions of this division.
 - (2) Update records.

- (b) *Permit not required for painting, cleaning or repair.* Maintenance consisting of painting, cleaning or repair of an existing sign does not require a new permit unless a structural or copy change is made.
- (c) *Maintenance required.* Maintenance of signs consisting of painting, cleaning or repair is required to maintain signs in the same condition and appearance as when originally installed.
- (d) *Erection of signs on or over public property.* No sign shall be erected or maintained on or over public property, unless licensed by the council, subject to approved criteria. However, wall signs may project over a front property line when the building wall is less than one foot from the property line, provided that such sign shall not impede or endanger pedestrians or vehicular traffic and shall project no more than one foot from the wall.
- (e) *Special encroachments.* Special encroachments on Highways 48 and 70 may be allowed by the state highway and transportation department, such as decorations and banners advertising special events when erected by governmental authorities. Encroachments may be allowed for a limited time provided they provide minimum 18-foot clearance and do not interfere with traffic control devices and signs.

(Code 1985, § 10-6-10; Ord. No. 97-07, § 1, 7-29-97; Ord. No. 98-12, 5-26-98)

Sec. 54-191 REGULATIONS FOR SPECIFIC SIGNS AND USES; SIZE LIMITATIONS.

- (a) *Sign types.*
 - (1) *Freestanding signs.*
 - a. A freestanding sign shall not exceed 35 feet in height, and must have at least eight feet between the base of the sign and the ground, and may not restrict view of traffic. Freestanding signs shall not exceed 150 square feet in area except for shopping center signs as provided under subsection (b)(5) of this section, or as approved by the planning commission.
 - b. An area directly under the freestanding sign shall be landscaped at the base of the sign.
 - c. The premises around the freestanding sign shall be maintained by the sign owner in a clean, sanitary and inoffensive condition and shall be free and clear of obnoxious substances, rubbish and weeds.
 - d. A minimum sight line triangle measured 20 feet along the right-of-way line from the base of the sign and ten feet in depth at a right angle to the right-of-way line 20 feet in distance from the base of the sign shall be maintained.
 - (2) *Projecting signs.* The bottom of projecting signs shall be at least eight feet above the ground or sidewalk and shall not project more than four feet from the supporting wall. No projecting sign may rise above the roofline or parapet, and signs may not project into the public right-of-way.
 - (3) *Hanging signs.* The minimum height to the bottom of a hanging sign shall not be less than eight feet above the ground or sidewalk, and signs shall be not more than six inches thick. Hanging signs shall be secured, fastened to support beams and supported by heavy chain or material of like strength.
 - (4) *Wall signs.* Maximum projection of a wall-mounted sign shall be six inches, unless the bottom of the sign is at least eight feet above the ground or sidewalk, in which case the maximum projection shall be 12 inches.

- (5) *Window signs.* Permanent signs painted in a window shall be measured by the area enclosed within a sign border, or if no border exists, the area of the minimum imaginary rectangle enclosing the words and symbols and spaces between them. Neon or similar sign devices mounted in a window area shall be measured on the same basis.
 - (6) *Marquees.* Maximum projection of marquees shall be eight feet from the supporting wall, and there must be not less than ten feet from the bottom of the marquee to the ground or sidewalk. The marquee may not be erected or maintained on or above the public right-of-way.
 - (7) *Signs with movable letters.* The movable letter portion of any one sign shall not exceed 70 percent of the total area of that particular sign, except for electronic signs which are allowed full movement of the sign message.
 - (8) *Ground signs.* Ground or low-profile signs shall only be permitted when set back a minimum distance of ten feet from the property line. Signs may be installed at or above grade level. Ground signs shall not be installed within the sight line triangle of streets or driveways and shall not restrict view of traffic. Ground level signs shall not exceed 100 square feet in area, except for shopping center signs as provided under subsection (b)(5) of this section or as approved by the planning commission. Ground sign installation shall conform to the provisions of subsections (a)(1)b and c of this section.
 - (9) *Canopy and awning signs.* Signs on canopies and awnings shall be measured by the area enclosed by a border or imaginary triangle enclosing the words, symbols or spaces between them. Awnings may be constructed of canvas, plastic or similar materials.
 - (10) *Banner signs.* A banner sign is a sign printed on lightweight, flexible material such as cloth, canvas or plastic. Each business shall be allowed a banner four times per calendar year in increments up to 14 consecutive days, not to exceed a total of 56 days per year. A permit fee set from time to time and listed in the fee schedule in appendix A to this Code will be required per each 14-day period. Banners shall not exceed a total of 32 square feet. Banners shall be attached flat against a wall or structure of the business which is permitted for such banner, or between the supports of a permitted freestanding sign. Banner area does not count against allowable sign area.
 - (11) *Neon signs.* Neon signs or similar tube signs are permitted sign types. Sign area shall be measured by the area enclosed within a sign border, or if no border exists, the area of a minimum imaginary rectangle enclosing the words, symbols and spaces between them.
- (b) *Sign sizes; regulations for specific uses.* Seventy percent of the total allowable signage must be permanent signs. The remaining 30 percent may be devoted to signs of a temporary nature if not otherwise prohibited by this division. Sign permits shall be obtained for both permanent and temporary signs.
- (1) *Commercial businesses, all categories.* The amount of signage shall be computed using the formula 0.076 times the square footage of the front of the building as designated by the owner or leaseholder. This amount of sign footage may be used as wall mounted, freestanding or a combination of both. The amount of signage for a business conducted on a property which has no permanent business structure or structures of less than 250 square feet shall be allowed one freestanding sign based on the linear feet of lot frontage, as follows:

Lot frontage (linear feet)	Sign area (square feet)
0—150	32
150—300	64

301—600	100
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Lots in excess of 600 linear feet shall be allowed two freestanding signs, provided that signs are separated by a minimum distance of 300 linear feet.

- (2) *Corner lots.* In addition to signs allowed on the front of buildings, wall-mounted signs only shall be allowed on the side of a building which fronts on a side street. Square footage shall be determined by using the formula of 0.076 times the square footage of the designated side of the building. This sign area may not be transferred to any other area of the premises.
- (3) *Churches.* Churches shall apply for approval of their signs, and shall be allowed square footage as determined by using the formula of 0.076 times the square footage of the designated front of the building.
- (4) *Buildings with multiple tenants.* In cases of more than one business located within one building (but less than four businesses), the owner of the building shall determine the percentage of the total allowable sign size which each business within the building is allowed. The total amount of square footage of signs erected, for all businesses within the building, shall not exceed the total amount allowed as determined by the formula.
- (5) *Shopping centers.*
 - a. To be designated a center, four or more shops or businesses must be on the premises. Shopping centers may be comprised of one or more tracts or ownerships maintaining a center identity under written agreement.
 - b. A center is allowed one freestanding sign for the purpose of identification of the center and of the businesses therein.
 1. The size of the freestanding sign shall be computed from the formula of one square foot of sign space per each linear foot of the designated front of the property, with a maximum of 200 square feet allowed.
 2. At least 50 percent of the center sign shall designate the shopping center, and the remaining 50 percent shall or may be used for riders to advertise the individual businesses within the center.
 - c. A center is also allowed wall-mounted signs using the formula of 0.076 times the square footage of the designated front of each building, as in provided in subsection (b)(1) of this section.
 - d. Individual businesses within shopping centers in the C-3 business district may have one projecting sign pursuant to subsection (a)(2) of this section, provided that such sign shall not exceed ten square feet and shall not project into the traveled roadway.
 - e. A temporary freestanding on-site sign may be allowed for a business within a center prior to erection of a center sign. Such temporary sign shall be removed within 30 days following construction of a center sign. Temporary signs must be joint signs with other businesses within the center wherever possible.
- (6) *Across-street banners.*
 - a. The maximum size allowed shall be three feet by 30 feet on street banners advertising a community or civic event as defined in subsections 54-194(11)b and (11)c and at a location

approved by the council and the state highway and transportation department district office in the village.

- b. There shall be one approved location on Mecham and one approved on Sudderth for across-street banners. The council shall approve the poles used to support such banners.
- c. A banner may be displayed up to 14 days prior to an event and must be removed within three days after the event.
- d. Applications shall be submitted to the village manager at least 90 days prior to the event. The village manager shall develop policies, and the manager (or designee) shall resolve conflicting requests in a fair and equitable manner.

(7) *Civic and quasipublic off-premises signs.*

- a. Off-premises name, directional and information signs of service clubs, places of worship, civic organizations and quasipublic uses shall not be more than four square feet in area. Sign height shall not exceed 16 feet.
- b. If a need exists for more than one such sign at one location, all such signs must be consolidated and confined within a single frame.

(8) *Commercial, off premises directional signs.*

- a. No off-premises sign shall be nearer than 200 feet to any other off-premises sign. There shall be no more than one off-premises sign per location. Commercial off-premises signs shall not be placed on any residential zoned property.
- b. No directional advertising sign of the same commercial enterprise shall be nearer than one mile to any other off-premises sign advertising the same commercial enterprise. The one-mile distance shall be determined from point to point on any single highway, street or other public thoroughfare. This provision shall not be construed as prohibiting off-premises signs within one mile of each other advertising the same commercial enterprise, where off-premises signs are located on different highways, streets or public thoroughfares.
- c. Off-premises sign areas shall not exceed 32 square feet.
- d. Off-premises directional advertisement signs shall pertain only to a business conducted on a site within the village limits or within two miles extraterritorial of the village if approved by the planning commission. The area of any off-site sign, when added to the area of any existing business sign, shall not exceed the allowable sign area for the business being directionally advertised. Off-premises signs are allowed only for businesses without frontage on Highway 48, Mecham Drive, Sudderth Drive or Highway 70. Signage shall not count against allowable sign area of the property where the off-premises sign is located.
- e. Off-premises signs may be placed on vacant property but shall be limited as to size based on allowable signage for property with no permanent structure as set forth in subsection (b)(1) of this section but in no event to exceed 32 square feet.
- f. Businesses with allowable square footage for off-premises signage shall be limited to two signs per business.

(9) *Residential signs:*

- a. Multifamily premises or mobile home parks with up to 24 dwelling units may have wall signs identifying the development or apartments, provided the signs are mounted flush to the perimeter wall or fence and the total sign area does not exceed 32 square feet. There shall be no more than five words which contain any character equal to or exceeding six inches in

height. However, words with characters of less than six inches in height may be used without limit as to number.

- b. Multifamily premises or mobile home parks with more than 24 dwelling units may have signs identifying the premises as follows: Multifamily premises may have wall- or fence-mounted signs, provided the signs do not exceed 40 square feet. Mobile home parks may have wall- or fence-mounted signs, provided the signs do not exceed 100 square feet. Multifamily premises or mobile home park wall-mounted signs may have no more than five words which contain characters equal to or exceeding six inches in height. However, there shall be no limit to words containing characters of less than six inches in height, except as limited under subsection (b)(1) of this section.
- (10) *Service station canopy signs.* The area of signs allowable for freestanding canopies over service station service islands or like installations shall be calculated based on 1.5 times the horizontal plane of the canopy structure times 0.076. Not less than 25 percent of the allowable sign area shall be on the canopy facade. The allowable area for canopy signs shall be in addition to allowable sign area for other structures on the premises.
- (11) *Resort signs.* Resorts shall be permitted, as *conditional uses*, signs in addition to those otherwise identified herein according to the following provisions:
- a. Definition.
 - 1. *Resort.* A *resort* is a hotel, under one roof or consisting of detached buildings, containing at least 200 guest rooms, together with at least seven of the following additional amenities:
 - Dining facilities: at least two restaurants which, together or separately, provide full meal service;
 - Lounge;
 - Golf course—18-hole championship;
 - Casino licensed by the State of New Mexico or qualifying as an Indian casino recognized by the State of New Mexico;
 - Horse or dog race track;
 - Tennis courts(s);
 - Swimming pool;
 - Day spa;
 - Retail shopping—minimum two separate shops;
 - Theater: performing arts or film;
 - Horseback riding;
 - Outfitting for hunting, fishing, camping, eco-tours and the like.
 - 2. *Location.* A *resort* is a facility located within the municipal limits of the Village of Ruidoso or the City of Ruidoso Downs, or in the unincorporated areas of Lincoln County within two (2) miles of the village limits of the Village of Ruidoso, or within the Mescalero

Apache Reservation within two miles of the Lincoln County line.

3. *Ownership.* All aspects of a resort shall be under unified ownership, except to the extent that condominium units may be separately owned.

- b. *Sign size.* Sign size shall be constrained by the structure upon which it is mounted. The structure on which the sign is mounted shall not exceed 20 feet in height nor 20 feet in width, except upon approval by the planning commission as a conditional use.
- c. *Sign location.* Resort signs may be located both on-premises and off-premises, according to other provisions of this code, provided that the square footage of the off-premise location(s) shall not count against the on-premise size limitations, and provided further that no resort sign shall be located in the C-3 (midtown commercial) district.
- d. *Sign features.* Resort signs may incorporate all features otherwise included in this code, together with industry additions such as LED signs, and the like, provided, that plastic backlit signs and marquee signs with manually changeable letters are prohibited.
- e. *Sign structure.* All signs shall be ground-mounted or building-mounted. Pole signs are prohibited.
- f. *Landscaping.* The area immediately adjacent to the sign shall be professionally landscaped in a minimum area not less than the total size of one face of the sign structure.

(Code 1985, § 10-6-11; Ord. No. 97-07, § 1, 7-29-97; Ord. No. 98-12, 5-26-98; Ord. No. 99-22, 10-26-99; Ord. No. 2004-14, 7-27-04)

Sec. 54-192 ILLUMINATION.

- (a) Light from any source intended to illuminate a sign shall be shaded, shielded or directed in such a way so that the light intensity or brightness shall not adversely affect the safe vision of pedestrians or vehicle operators on public and private streets, driveways or parking areas and shall not adversely affect any surrounding premises. Illumination from any sign shall not interfere with the effectiveness of any official traffic sign, signal or device.
- (b) Signs involving the use of revolving lights, beacons, strobe lights or spotlights are specifically prohibited.

(Code 1985, § 10-6-12; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-193 PROHIBITED SIGNS.

The following signs are prohibited:

- (1) Signs contributing to confusion of traffic control lighting, unauthorized signs, signals, markings or devices which purport to be or are imitations of official traffic control devices or railroad signs or signals, or signs which hide or interfere with the effectiveness of any official traffic control devices.
- (2) Unauthorized signs which attempt to control traffic on the public right-of-way.
- (3) Signs with audible devices.
- (4) Freestanding signs with overhead wiring to supply electricity. However, off-premises signs are excluded unless underground power lines supply the site.

- (5) Banners, except as otherwise allowed by this division, and portable signs of any type, including signs placed in or carried on vehicles.
- (6) Canopy signs, if the bottom of the sign is less than eight feet above grade.
- (7) Building-mounted signs which extend above the roofline of the building, except on approval by the planning commission. Angle irons or similar supports shall not be visible from public rights-of-way; guy wires or cables may be visible.
- (8) Signs with missing letters (including approved signs with movable letters) or signs which are in a state of disrepair.
- (9) No sign, except an approved banner, may hang over, or in, any public right-of-way, unless licensed by the council, subject to approved criteria.
- (10) Billboards or other off-premises signs relating to a business not located within the village limits or within two miles extraterritorial.
- (11) Signs of temporary construction shall not be used as permanent exterior signs.
- (12) Flag signs with the name of a business, name of products, words or numbers, except as provided in subsections 54-194(10) and (17).
- (13) Inflatable signs and tethered balloons.

(Code 1985, § 10-6-13; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-194 SIGNS NOT REQUIRING PERMIT.

Provided they conform to all other portions of this division as provided, the following types of signs do not require a permit:

- (1) Nonilluminated names of buildings, dates of erection, monuments, citations, commemorative tablets and the like are allowed when carved into stone, concrete, metal or any other permanent type construction and made an integral part of an approved structure, or made flush to the ground (but not obstructing view of traffic).
- (2) Signs required by law or signs of a duly constituted governmental body, traffic signs or directional signs which are approved by the village council, are allowed.
- (3) Signs placed by a public utility for the safety, welfare or convenience of the public are allowed, such as signs identifying high voltage, public telephones or underground cable.
- (4) Signs upon a vehicle are allowed, provided that any such vehicle with a sign face of more than two square feet is not conspicuously parked so as to constitute a sign. Nothing in this subsection prevents such a vehicle from being used for bona fide delivery and other vehicular purposes.
- (5) Holiday decorations.
- (6) Special political signs on private property shall be allowed up to a total area of six square feet in area for each premises in a residential zone and up to 32 square feet for each sign in a nonresidential zone. Special political signs may be erected no earlier than 45 days prior to any primary election, general election or municipal election, and they shall be removed within ten days after the election to which the sign pertains or after the termination of a candidacy, whichever occurs first. Signs shall be maintained as specified under subsection 54-190(c).

- (7) One construction sign shall be allowed for all building contractors, one for all professional firms, and one for all lending institutions on premises under construction. Each sign's area shall not exceed 32 square feet, and not more than a total of three such signs are allowed on the premises. Such sign shall be confined to the site of construction, construction shed or construction trailer and shall be removed within 14 days of the beginning of the intended use of the project.
- (8) Real estate signs are allowed as follows when located on property for sale, rent or lease (not to be confused with the business sign on the real estate office):
- a. One temporary real estate sign located on the property it refers to shall be allowed for each street frontage of developed premises or undeveloped lot of less than two acres. Signs shall be removed within 14 days after sale or complete leasing.
 1. In residential zones, the signs shall not exceed six square feet in area, including name identification riders. An additional add-on sign area of one-half square foot indicating that the property has been sold or leased is allowed.
 2. In nonresidential zones, the signs shall not exceed eight square feet in area on improved lots and 16 square feet in area on unimproved lots.
 - b. One temporary real estate sign not exceeding 16 square feet in area and located on the property it refers to shall be allowed for each lot of two acres or more. If the lot has multiple frontage, one additional sign not exceeding 16 square feet in area shall be allowed on the property, to be placed facing the additional frontage. Under no circumstances shall more than two sign units be allowed on the lot. Signs shall be removed within 14 days of sale or complete leasing.
 - c. Temporary real estate directional signs not exceeding four square feet in area, three feet in height, and four in number, showing a directional arrow and placed on private property, may be allowed on approach routes to an open house.
 - d. Up to two temporary subdivision identification signs located on the vacant residential property shall be allowed for each subdivision or builder's development of ten lots or more. Such signs shall not exceed 32 square feet in area, and sign height shall not exceed 35 feet. Signs shall not be displayed prior to the date of the recording of the plat and shall be removed upon completion of the project.
 - e. The height of real estate signs shall not exceed five feet when located in a residential zone.
- (9) Signs located inside a building or structure for temporary sale notices or play bills, and so located as to be conspicuously visible and readable from outside the building or structure, are allowed.
- (10) Signs designating "open" or "closed" are allowed, provided that they are limited to one per business and 15 square feet or less in area.
- (11) Banners advertising community or civic events maintained for a temporary period of not in excess of one month prior to the event and not more than seven days after the close of the event are allowed. Banner shall not exceed 32 square feet and shall be limited to the following locations:
- a. School House Park, tennis court area.
 - b. Two Rivers Park, Chamber office.
 - c. Free parking lot, Midtown area.

Community or civic events advertised at the above locations shall be those which are either sponsored by non-profit organizations, approved for expenditures of lodger's tax funds, or approved by the village

council according to the lodgers' tax criteria of chapter 2, article IV, division 3. The village council may authorize additional locations for banner display within the areas approved for community or civic events to facilitate crowd control. Banners provided to sponsor of community or civic events may contain a logo or other donor identification of not more than ten percent of the banner area.

- (12) Official national, state or village flags are allowed for any period of time.
- (13) Residential name and street address signs are allowed. A resident's name sign not exceeding three square feet in area per face shall be allowed for each house or townhome. Street address signs shall not exceed three square feet. Premises may have one freestanding sign at any location on the site; provided, however, premises with more than 750 linear feet of public street frontage may have one additional freestanding sign for each 500 feet of additional frontage or fraction thereof. However, no sign shall exceed 16 feet in height or 32 square feet per sign face.
- (14) Parking or directional signs in a private parking lot are allowed, not to exceed four square feet.
- (15) Business identification on vehicles used for company or business use is allowed where the sign is permanently painted on a vehicle or where the sign is magnetically attached to the side of the vehicle. Advertisement place cards may also be placed on vehicles classified as common carriers.
- (16) Incidental signs. A sign, generally informational, that has a purpose secondary to the business on the lot on which it is located, such as entrance, exit, parking, loading, telephone, no smoking, user directions or instructions and other similar directions. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.
- (17) Flags containing logos or emblems.
- (18) Signs located within an enclosed sports complex for view by sports event participants and spectators only and under the following conditions:
 - a. Signs may be banners or signs of permanent materials attached to or placed within 18 inches of fenced, enclosed play areas and directed for viewing from the field of play. Sign shall not be directed toward public right-of-way or adjoining properties. Banner or sign placement is regulated by the facility manager.
 - b. Area of banner or sign shall not exceed 32 square feet. Banners shall have wind slits to reduce wind resistance.
 - c. Signs shall be displayed only during sports events and shall be removed immediately thereafter. Permanent signage is not allowed.
 - d. Type of sign, placement and manner of attachment or installation must be approved by the village park and recreation director when displayed on village property or property under village control.
 - e. Signage shall not count against allowable sign area for business or pursuit being advertised nor property where signage is located.
 - f. For purposes of this section the following are designated as sports complexes; and are exempt from the provisions of subsection 54-191(b)(8):
 - 1. White Mountain Recreational Complex.
 - 2. Eagle Creek Ball Fields.
 - 3. School House Park Tennis Courts.
 - 4. North Park Complex.
 - 5. Ruidoso High School Playing Fields.
 - 6. Middle School Football Field.

- g. Other properties may be designated as a sports complex by the planning and zoning commission subject to conditions a. through f. above.

(Code 1985, § 10-6-14; Ord. No. 97-07, § 1, 7-29-97; Ord. No. 98-19, § 1, 12-8-98; Ord. No. 99-03, 3-9-99; Ord. No. 2000-18, 12-12-00)

Sec. 54-195 VIOLATIONS; REMOVAL OF UNLAWFUL SIGNS.

- (a) A sign permit shall be issued for all signs regulated by this division and shall be maintained on the premises where the sign is located, except that all off-premises sign permits shall be maintained on the premises of the permittee.
- (b) Any sign existing prior to the effective date of this article for which the necessary approval and sign permit was not obtained pursuant to the provisions of any previous code shall continue to be illegal and shall be removed or brought into conformance with this division, and, further, the owner thereof shall continue to be liable for the penalties described in this section.
- (c) The code enforcement officer shall give seven days' notice, in writing, by certified mail, to the owner of any sign erected without approval or otherwise in violation of this division, informing the owner that the sign must be brought into conformance with this division or must be removed.
- (d) Upon failure to remove the sign or to comply with this notice, the code enforcement officer shall have the sign removed. Any cost of removal incurred by the village shall be assessed to the owner of the property on which such sign is located and may be collected in the manner of ordinary debt or in the manner of taxes, and such charge shall be a lien upon the property and may be filed with the county clerk in the manner that municipal liens are filed.
- (e) In addition, any person who violates any provision of this division shall be punished by a fine as provided in section 54-38, except that notice and penalty for violation of subsection 54-191(a)(10) pertaining to banners shall be as provided below:
 - (1) First violation—warning and order for immediate removal.
 - (2) Second violation—citation issued, each day constitutes a separate violation with penalty of a minimum of \$25.00 per day.
 - (3) Third and successive violations—citation issued, each day constitutes a separate violation with penalty of a minimum of \$50.00 per day plus the loss of allowable days in the current and the successive year.
- (f) Nonconforming or illegal signs required to be removed shall be deemed to be amortized after the expiration of the time period specified under section 54-193(b). The amortization period shall equal just compensation for constitutional and statutory purposes.
- (g) Signs placed in the public right-of-way in violation of this division may be removed by the code enforcement officer. Such signs shall be disposed of or destroyed if not claimed within 15 days of removal.

(Code 1985, § 10-6-15; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-196 ADVERTISEMENT ON PUBLIC PROPERTY.

- (a) It shall be unlawful to tack or place any sign, bill, banner, poster or advertisement of any nature in the public right-of-way except as provided under this division.
- (b) Political signs may be located in the public right-of-way for periods specified under subsection 54-194(6). Applications for such sign permits shall be submitted to the village clerk. The size of the sign is limited as to size under section 54-194(6). Signs shall be maintained as specified under subsection 54-190(c). Signs for the same candidate shall be spaced a minimum of 300 feet apart and shall be no closer than ten feet from signs for another candidate. No political sign shall be placed on or adjacent to public parks, buildings or facilities. Signs placed in any sight line triangle shall not exceed 30 inches in height nor be closer than ten feet from edge of pavement. Signs shall not distract or interfere with traffic control signs.
- (c) No such permit shall be issued unless a permit fee is paid and there is deposited with the village clerk the sum as set from time to time and listed in the fee schedule in appendix A to this Code. The deposit sum shall be returned to the applicant if the applicant causes all such signs, posters or advertisements to be removed within the time prescribed by this division. If such applicant does not cause the removal of such signs, posters or advertisements within such time, then the deposit shall be forfeited to the village. The permit fee is not refundable.
- (d) The provisions of this division shall not apply to notices posted by order of court or notices to the public required by law to be posted in a public place.

(Code 1985, § 6-2-14; Ord. No. 97-07, § 1(10-6-15), 7-29-97; Ord. No. 98-19, § 2, 12-8-98)

Sec. 54-197 SECS. 54-197—54-220. RESERVED.

DIVISION 9: HOME OCCUPATIONS¹⁰

Sec. 54-221 GENERALLY.

A home occupation is an accessory use of a dwelling unit, conducted entirely within the dwelling unit, carried on by one or more persons, all of whom reside within the dwelling unit, and where no persons are employed other than resident and domestic help. The use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part. There shall be no outside storage of any kind. Any indoor storage, construction, alterations, or electrical or mechanical equipment used shall not change the fire rating of the structure or the fire district in which the structure is located. The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time. It shall not cause an increase in the use of one or more utilities (water, sewer or garbage) so that the combined total use for dwelling and home occupation purposes of one or more utilities exceeds the average for residences in the neighborhood. When a use is a home occupation, it means that the owner, lessee or other persons who have a legal right to the use of the dwelling unit also have the vested right to conduct the home occupation without securing special permission to do so. However, such person shall be subject to all conditions set forth in this article, such as zoning certification and off-street parking requirements, and shall be subject to all other permits required by the village, such as building permits and business licenses, and are required to check with village officials and obtain necessary approvals before establishing such home occupations.

¹⁰Cross reference(s)—Businesses, ch. 26Cross reference(s)—.

(Code 1985, § 10-7-1)

Sec. 54-222 INTENT OF DIVISION.

It is the intent of this division to eliminate as home occupations all uses except those that conform to the standards set forth in this division. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The standards for home occupations in this division are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood, and a clearly secondary or incidental status in relation to the residential use of the main building, as the criteria for determining whether a proposed accessory use qualifies as a home occupation.

(Code 1985, § 10-7-2)

Sec. 54-223 CONDITIONS FOR CONDUCT OF HOME OCCUPATION.

Home occupations are permitted accessory uses in residential zones only so long as all the following conditions are observed:

- (1) Such occupation shall be conducted solely by resident occupants in their residence.
- (2) No more than one room or 25 percent of the gross area of one floor of the residence, whichever is less, shall be used for such purposes. Use of accessory buildings or garages for these purposes is prohibited.
- (3) No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure or the fire district in which the structure is located.
- (4) No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, garbage, etc.) so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood.
- (5) There shall be no outside storage of any kind related to the home occupation.
- (6) The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time.
- (7) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

(Code 1985, § 10-7-3)

Sec. 54-224 EXAMPLES OF PERMITTED HOME OCCUPATIONS.

The following are typical examples of uses which can be conducted within the limits of the restrictions established in this division and thereby qualify as home occupations; provided that uses which may qualify as

home occupations are not limited to those named in this section, nor does the listing of a use in this section automatically qualify the use as a home occupation: accountant, architect, artist, attorney at law, author, consultant, dressmaking, individual stringed instrument instruction, individual tutoring, insurance, millinery, preserving and home cooking, realtor.

(Code 1985, § 10-7-4)

Sec. 54-225 PROHIBITED USES.

The following uses, by the nature of the investment in operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, the following uses shall not be permitted as home occupations: auto repair, minor or major; barbershop; construction trades; dance instruction; dental offices; medical offices; painting of vehicles, trailers or boats; photo developing; photo studios; private schools with organized classes; radio repair; television repair; upholstery.

(Code 1985, § 10-7-5)

Sec. 54-226 —54-280. RESERVED.

ARTICLE III. SUBDIVISIONS

Sec. 54-281 GENERAL PROVISIONS.

(a) *Policy.*

- (1) It is hereby declared to be the policy of the village to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the village pursuant to the village comprehensive master plan and zoning code for the orderly, planned, efficient and economical development of the village.
- (2) Land to be subdivided shall be of such character that it can be used safely for building without danger to health or peril from fire, flood or other menace, and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, protection of trees and hillsides, and capital improvements such as schools, parks, recreation facilities, transportation facilities and other public improvements.

(b) *Purpose.* The purpose of this article is that of ensuring sites suitable for building purposes and human habitation, of providing for the harmonious development of the village, of providing adequate open spaces for traffic, recreation, light and air, of providing proper distribution of population, and of creating conditions favorable to the health, safety, morals and general welfare of the citizens.

(c) *Statutory authority; territorial jurisdiction.*

- (1) Authorization for the village to adopt subdivision regulations is given in NMSA 1978, § 3-19-6.

- (2) Platting jurisdiction for the village encompasses all the territory within the village and all territory within three miles of the village limits as provided in NMSA 1978, § 3-19-5.
- (d) *Interpretation; conflicting provisions.*
- (1) *Minimum requirements.* In their interpretation and application, the provisions of this article shall be held to be the minimum requirements necessary for the promotion of the public health and general welfare.
- (2) *Conflicting provisions.*
- a. *Public provisions.* This article is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law except as noted in this article. Where any provisions of this article impose restrictions different from those imposed by any other ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
- b. *Private provisions.* This article is not intended to abrogate any easement, covenant, or other private agreement or restriction, provided that, where the provisions of this article are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this article shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive than this article, and such private provisions are not inconsistent with this article or determinations thereunder, then such private provisions shall be operative and supplemental to this article and determinations made thereunder.
- (e) *Prior penalties, actions, liabilities or rights.* This article shall not be construed as abating any action now pending under or by virtue of prior existing subdivision regulations, or discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, or as waiving any right of the village under any section or provision existing at the time of adoption of the ordinance from which this article is derived, or as vacating and annulling any rights obtained by any person by lawful action of the village, except as shall be expressly provided for in this article.
- (f) *Amendments.* For the purpose of providing for the public health, safety and general welfare, the council may from time to time amend the provisions imposed by this article.

(Code 1985, § 10-10-1)

Sec. 54-282 DEFINITIONS.

For purposes of this article, unless the context clearly indicates to the contrary, words used in the present tense include the future tense. Words used in the plural number include the singular. The word "herein" means "in." The word "person" includes a corporation, a partnership and an incorporated association of persons such as a club. The term "shall" is always mandatory. The term "building" includes "structure." The term "building" or "structure" includes any part thereof. The term "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied." The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant means the owner of land proposed to be subdivided, or his representative.

Block means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or boundary lines of municipalities.

Bond means any form of security, including a cash deposit, surety bond, collateral, property or instrument of credit, in an amount and form satisfactory to the council.

Building means any structure built for support, shelter or enclosure of persons, animals, chattels or movable property of any kind.

Capital improvements program means a proposed schedule of all future municipal improvement projects listed in order of construction priority, together with cost estimates and the anticipated means of financing each project.

Commission means the planning commission.

Comprehensive plan means the document (the Ruidoso Comprehensive Master Plan), or part thereof, officially adopted by the council, which provides for the development of the village and which indicates the general locations recommended for major roadways, parks, public utilities and buildings, and land uses.

Construction plan means the maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the council as a condition of the approval of the plat.

Cul-de-sac means a local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Developer means the owner of land proposed to be subdivided, or his representative.

Easement means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Engineer, village means the professional engineer engaged by the council.

Escrow means a deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond.

Final plat means the map, plan or record of a subdivision and any accompanying material, as described in this article.

Frontage means that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Grade means the slope of a road, street or other public way, specified in percentage terms.

Lot improvement means any building, structure, place, work of art or other object, or improvement of the land on which they are situated, constituting a physical betterment of real property.

Major subdivision means all subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four or more lots, or any size subdivision requiring any new street or extension of village facilities or the creation of any public improvements.

Minor subdivision means any subdivision containing not more than three lots fronting on an existing street, not involving any new street or road or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the comprehensive plan, the zoning code (article II of this chapter), the official zoning map or this article.

Model home means a dwelling unit used initially for display purposes which typifies the units that will be constructed in the subdivision.

Municipality means the village, as incorporated by state law.

Neighborhood park and recreation improvement fund means a special fund established by the village to retain monies contributed by developers in accordance with the "fee in lieu of land" provisions of this article, within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.

Nonresidential subdivision means a subdivision whose intended use is other than residential, such as commercial or industrial subdivisions.

Off-site means any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

Ordinance means any legislative action of a local government which has the force of law, including any amendment or repeal of any ordinance.

Owner means any person, group of persons, firm, corporation or other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under this article.

Performance bond means a bond filed with the Village Clerk and executed by a surety company holding a license to do business in the State of New Mexico, and acceptable to the Village of Ruidoso on a form approved by the village, in an amount of 125 percent of the cost of the improvements as certified by the council or designee. The performance bond shall be approved as to form by the village attorney.

Perimeter street means any existing street to which the parcel of land to be subdivided abuts on only one side.

Planning authority. The planning authority for the village shall be the planning commission.

Planning department means the department authorized by the council to administer this article.

Plat means a map, chart, survey, plan or replat, certified by a licensed registered land surveyor, containing a description of the subdivided land with ties to permanent monuments.

Preliminary plat means the preliminary drawings, described in this article, indicating the proposed manner of layout of the subdivision.

Public improvement means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the village may ultimately assume the responsibility for maintenance and operation, or which may effect an improvement for which the village responsibility is established.

Registered architect means an architect licensed and registered in the state.

Registered engineer means an engineer licensed and registered in the state.

Resubdivision means a change in a map of an approved or recorded subdivision plat, if such change affects any street layout on such map or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Right-of-way means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or trees, or for another special use.

Roadway means that portion of a street right-of-way intended for driving or parking.

Sale and lease mean any immediate or future transfer of ownership or any possessory interest in land, including a contract for sale, lease, intestate succession, or other written instrument.

Commented [PT17]: Check percentage increase, check reevaluating the bond amount.

Commented [PT18]: Could be the village manager or public works director, but council seems consistent with the rest of the ordinance.

Sketch plat means a sketch preparatory to the preparation of the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the planning commission as to the form of the plat and the objectives of this article.

Street is a general term used to describe a paved right-of-way, municipally or privately owned, serving as a means of vehicular travel. Streets are classified by function as follows:

- (1) *Local street* means a street intended to serve and provide access exclusively to the properties abutting thereon, and not connecting with other streets in such a manner as to encourage through traffic.
- (2) *Collector street* means a street connecting local residential streets to each other, to community facilities and to principal or minor arterial streets.
- (3) *Principal and minor arterial streets* means streets designed to carry large amounts of traffic across or through the village and designated as such by the comprehensive plan.
- (4) *Service street* means a street running parallel to a freeway, expressway or other roadway, and serving abutting properties, also called a frontage road.

Street, dead-end means a street or a portion of a street with only one vehicular traffic outlet.

Subdivide or subdivision, for the purpose of approval by the planning commission, means:

For the area of land within the corporate boundaries of the village, the division of land into two or more parts by platting or by metes and bounds descriptions into tracts for the purposes set forth in this definition; and

For the area of land within the village extraterritorial subdivision and platting jurisdiction, the division of land into two or more parts by platting or by metes and bounds description into tracts of less than five acres in any one calendar year for the purposes set forth in this definition.

The division of land pursuant to this definition shall be for the purpose of:

- (1) Sale for building purposes;
- (2) Laying out a municipality or any part thereof;
- (3) Adding to a municipality;
- (4) Laying out suburban lots; or
- (5) Resubdivision.

State law reference(s)—Similar provisions, NMSA 1978, § 3-20-1.

Subdivider means any person who, having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who, directly or indirectly, sells, leases or develops, or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit or plat in a subdivision; or who engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel, site or plat in a subdivision; and who is directly or indirectly controlled by or under direct or indirect common control with any of the persons mentioned in this definition.

Subdivision agent means any person who represents or acts for or on behalf of a subdivider.

Subdivision plat means the final map or drawings, described in this article, on which the subdivider's plan of subdivision is presented to the planning commission and the council for approval and which, if approved, may be submitted to the county clerk or recorder of deeds for filing.

Temporary improvement means improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.

(Code 1985, § 10-10-2)

Cross reference(s)—Definitions generally, § 1-2Cross reference(s)—.

Sec. 54-283 PLATTING PROCEDURES AND REQUIREMENTS.

(a) *Pre-application contact and sketch plat.*

- (1) Prior to the submission of a sketch plat as required by this article, the subdivider shall contact the planning administrator and any other administrative personnel or private agencies to determine:
 - a. Procedures and requirements for filing the sketch plat and preliminary and final plat.
 - b. Availability of public water and sewer, or requirements when public systems are not readily available.
 - c. Zoning requirements on the property.
 - d. Requirements of the duly adopted comprehensive plan for major streets, land use, schools, parks and other public open space.
 - e. The location and extent of any floodplains.
 - f. The location of forested areas and steep slopes as defined in article II of this chapter.
- (2) As a part of this contact, the subdivider may discuss with the planning department, or any other appropriate agency, its tentative proposals for the development of the property.
- (3) The subdivider shall submit, and the planning commission shall review and comment on, a sketch plat prior to the preparation of a preliminary plat. The planning commission shall make such a review and make its comments known to the subdivider in writing within five days from the date of the review. The sketch plat shall contain or show five-foot contours and the requirements of subsections (a)(1)a through f of this section.
- (4) The purpose of this pre-application procedure is to determine any problems with the proposed development before expenses are incurred in the preparation of a preliminary plat. No official action is required of the planning commission or other agencies, other than offering appropriate comments on the proposal and indicating suitability for proceeding through the platting process.

(b) *Preliminary plat.*

- (1) Preliminary plats shall be submitted in 15 copies and, if requested, a reproducible copy to the planning department. The preliminary plat shall consist of drawings and accompanying material and information as prescribed by this article.
- (2) The preliminary plat drawing shall be prepared at a scale of one inch equals 100 feet or larger for subdivisions where the majority of lots are less than five acres in size. The scale may be reduced to one inch equals 200 feet for subdivisions in which the minimum lot size is five acres or more. The face of the drawing shall contain the following information:
 - a. The name of the subdivision. The name shall not duplicate or too closely resemble the name of any subdivision previously filed in the county.
 - b. Date of preparation, scale and north arrow. The top or left side of each sheet shall represent north wherever possible.
 - c. A vicinity map drawn at a scale of one inch equals 1,000 feet, or one inch equals 2,000 feet, showing the location of the proposed subdivision in the village and its relationship to surrounding development.

- d. The name, address and telephone number of the developer or subdivider, and the individual or firm responsible for the preparation of the preliminary plat.
 - e. A legal description of the subdivision boundary.
 - f. The boundary lines of the subdivision in a heavy solid line, referenced to section or quarter section lines.
 - g. A description of all monuments, both found and set, which mark the boundary of the subdivision, and a description of all control monuments used in the survey.
 - h. Existing contours at a maximum interval of five feet unless waived by the planning department.
 - i. General location and extent of any significant natural features such as streams, drainageways, forested areas or steep slopes.
 - j. Floodplains as delineated on maps available in the planning department.
 - k. Location, dimensions and names of existing roads, streets, alleys, railroad rights-of-way and structures within 100 feet immediately adjacent to the property showing how they relate to the proposed subdivision layout.
 - l. Location, size and grades of existing sanitary and storm sewers and location and size of water mains, gas lines, pipelines or other underground utilities or installations within the proposed subdivision and within 100 feet immediately adjacent thereto.
 - m. Location and dimension of all easements of record.
 - n. Existing zoning and land use of the proposed subdivision and immediately adjacent areas.
 - o. Location and width of proposed streets, alleys, pedestrian ways and easements.
 - p. Layout, numbers and approximate dimensions of proposed lots and blocks.
 - q. Location, dimension and size in acres of all sites proposed to be used for commercial, industrial, multifamily residential, public or quasipublic use, with the use noted.
 - r. A summary of the total number of acres, number of lots, acreage of commercial or industrial areas, acreage of open space, and amount of land in rights-of-way, and other descriptive material useful in reviewing the proposed subdivision.
- (3) The following information and material shall be a part of any preliminary plat submittal and shall accompany the preliminary plat drawing:
- a. Payment of the total amount of the preliminary plat fee.
 - b. A statement explaining the proposed design and function of the water, sewage, paving, sidewalk and drainage systems, their compatibility with existing systems, and the timing and/or phasing of installation.
 - c. A statement describing the development and maintenance responsibility for any private streets, ways or open space.
 - d. The recommendations of a qualified professional engineer of the affected soil conservation district regarding soil suitability, erosion control, sedimentation and flooding problems.
 - e. A description of the phasing and scheduling of phases for the development, if the final plat is to be submitted in separate phases.
 - f. A petition for annexation to the village if the land to be subdivided is contiguous to and outside (either by itself or as part of a larger tract) the boundaries of the village.
 - g. An application for appropriate zoning for the subdivided area if the area is to be annexed or if the existing zoning district does not allow the types of uses proposed.
 - h. A completed preliminary plat checklist on the standard forms provided.

- (4) After receipt of the preliminary plat and all required supporting material, the planning department shall schedule the plat for consideration at the next regular meeting of the planning commission which occurs after 23 days from the date on which the plat was submitted, and shall, within three days, transmit copies to appropriate agencies and officials for their review and comment.
 - (5) Agencies receiving referral copies of the preliminary plat should return written comments on the plat to the planning department within ten days after receipt of the plat. Agencies may also present comments on the plat at the planning commission meeting at which the plat is considered.
 - (6) Upon receipt of all agency comments, or at the end of the ten-day period, the planning department will summarize the agency comments, add written comments and recommendations from the department itself, and present the material and recommendations to the planning commission for its consideration.
 - (7) Notice of any public meeting shall be accomplished as set forth in section 54-40.
 - (8) The subdivider, or his duly authorized representative, shall attend the planning commission meeting at which the proposal is scheduled for consideration.
 - (9) At the planning commission meeting, the subdivider and all other interested or affected parties shall be allowed to offer comments. Within 15 days of the meeting, the commission shall approve or disapprove the preliminary plat. Within ten days after the date of the meeting at which final action was taken, the commission shall notify the subdivider and the council of its decision. If conditions are attached to its approval, the subdivider and council shall be informed of such conditions.
 - (10) Within 30 days of receipt of the planning commission's recommendation, the council shall, by motion, act on the preliminary plat and the commission's recommendation, and shall send notices of its action to the commission and the subdivider. Upon approval of the preliminary plat, a 24-inch by 36-inch mylar of the preliminary plat shall be submitted to the village.
 - (11) Approval of the preliminary plat by the council shall be effective for six consecutive calendar months from the date of approval. The subdivider may apply in writing for, and the planning commission may, for cause shown, grant up to a six-month extension. If a final plat has not been submitted within this specified period on all or a portion of the land area included in the preliminary plat, a preliminary plat must again be submitted for approval. In a phased development, if there is any land area for which a preliminary plat has been approved and for which a final plat has not been submitted within 24 months from the date of the approval of the preliminary plat, the applicant shall not be allowed to proceed with final platting until a new preliminary plat is submitted and approved.
- (c) *Approval and contents of final plat.*
- (1) After approval of the preliminary plat, a final plat may be prepared and submitted. The final plat shall be prepared and certified as to its accuracy by a registered land surveyor licensed to do such work in the state. The final plat and required supporting material shall conform to the design and engineering standards set forth in this article and to any conditions of approval specified by the planning commission and council.
 - (2) Final platting may be accomplished in stages covering reasonable portions of the area of an approved preliminary plat. When this is done, each sheet of the final plat shall contain a vicinity map showing the location of the portion being submitted in relationship to the area for which the preliminary plat was submitted. All final plats so submitted shall be of the same scale, shall have identical titles, legends and other information, and shall have match lines so that mosaics of the entire subdivision can be developed. Each stage of the subdivision shall be as nearly self-sustaining and complete as possible and shall by itself, or in conjunction with previous stages, meet the design standards set forth in this article so that, if development of the entire subdivision is interrupted or discontinued after one or more stages are completed, a viable development will result.

- (3) The final plat shall be clearly and legibly drawn in black waterproof India ink upon tracing linen, mylar of 0.004 inch in thickness (minimum), or some similar stable base material. Required affidavits, certificates and acknowledgments shall be legibly printed on the plat in opaque ink. The sheet size of all final plats shall be 24 inches high by 36 inches wide. Information on the plat should be so positioned that a 1½-inch margin is on the lefthand side and a one-half-inch margin is shown on the remaining sides. The final plat shall be prepared at a scale of one inch equals 100 feet, or at a scale of one inch equals 200 feet for subdivisions in which the minimum lot size is five acres or more. Each sheet of the final plat shall be numbered, and the total number of sheets comprising the plat shall be stated on each sheet (for example, "Sheet 2 of 4"). The relationship of one sheet to the other shall be shown by key maps and by match lines.
- (4) The original linen or mylar, one reproducible copy (sepia not acceptable) and nine prints of the final plat and two copies of all required supporting material shall be submitted to the planning department at least 14 days prior to the planning commission meeting at which the final plat is to be considered.
- (5) The submitted final plat shall contain the notarized signatures of the owners of any and all equitable or legal interest in the land, of whatever nature, and the signature of the registered land surveyor who prepared the plat.
- (6) All final plats shall include the following information on the face of the plat:
 - a. The name of the subdivision, centered at the top of each sheet.
 - b. General location of the subdivision by section, township, range, county and state, entered under the name of the subdivision.
 - c. North arrow, date and scale.
 - d. Boundary lines of the subdivision in a heavy solid line.
 - e. Legal description of the subdivision boundary based on an accurate traverse, giving bearing and linear dimensions that result in a maximum allowable error of closure of one part in 10,000.
 - f. The location and description of the point of beginning and its proper reference to the monumented boundary survey.
 - g. The location and description of all monuments.
 - h. Bearings, distances and curve data of all perimeter boundary lines indicated outside of the boundary lines.
 - i. On curved boundaries and on all curves within the plat, sufficient data to allow the reestablishment of the curves on the ground.
 - j. The location and layout of lots, blocks, tracts, streets, alleys, easements and other public grounds within and immediately adjoining the plat, with accurate dimensions in feet and hundredths of feet, bearings, curve data, length of radii and/or arcs of all curves.
 - k. Drainage easements, clearly labelled as such.
 - l. The names of all streets.
 - m. All lots logically and consecutively numbered in the center of the lot.
 - n. All dimensions shown on irregularly shaped lots.
 - o. Parcels completely or partially surrounded by the area being subdivided, clearly marked "Excepted," and the common boundary with the subdivision shown in a heavy solid line with bearings and distances.
 - p. A notation of the total acreage of the subdivision and the total number of lots.
 - q. A notarized certificate by all parties having any titled interest in or lien upon the land, consenting to the recording of the plat and dedicating public ways, grounds and easements.
 - r. A notarized certificate of a registered land surveyor, registered under the laws of the state,

stating that the plat is true, accurate and complete.

- s. Certificate of review of the Public Works Department, as follows:

Data on this plat reviewed this ____ day of _____, _____, by the Public Workd
Department of Ruidoso, New Mexico.

Public Works Department	
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- t. Certificate of approval by the village planning commission, as follows:

This plat approved by the Village of Ruidoso Planning Commission this ____ day of _____,
A.D., _____.

Chairman	
ATTEST:	
Secretary	

- u. Certificate of acceptance and approval by the village council, as follows:

Approved by the Governing Body of the Village of Ruidoso, New Mexico, this ____ day of _____, A.D.,
_____.

Mayor	
ATTEST:	
Village Clerk	

- v. Certificate for recording by the county clerk and recorder, as follows:

This plat was filed for record in the Office of the County Clerk and Recorder at ____ o'clock
____.m., _____, _____, and is duly recorded in Book _____, Page No. _____.

County Clerk	
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- (7) The final plat shall be accompanied by the total amount of the final plat fee.
- (8) After receipt of the final plat, the planning department shall review the submittal for completeness and for conformance with the approved preliminary plat. The department may refer copies of the final plat

to and seek comment from other officials and agencies. Any such comments should be made known to the department within ten days after the date of submittal of the final plat.

- (9) The final plat shall be scheduled for the consideration of the planning commission at its next regular meeting after the 14-day review period. After due deliberation, the planning commission shall approve, conditionally approve, or disapprove the final plat. Approval of a final plat by the planning commission shall remain effective for 18 calendar months.
 - (10) Within ten days after the date of the meeting at which final action was taken, the planning commission shall notify the subdivider and the council of its action. If the final plat is approved, the subdivider may proceed in accordance with subsection (d) of this section. If the final plat is disapproved by the commission or conditionally approved, and the subdivider wishes to appeal the conditions, the subdivider may request a hearing before the council appealing the action of the commission. The request shall be submitted in writing within 30 days of the action or decision appealed from and shall state the specific relief which the subdivider or landowner seeks. Within 30 days of the receipt of such a request, the council shall hold a hearing to determine the proper disposition of the matter. At the hearing, the council shall consider not only the subdivider's appeal, but also the written or verbal comments of the commission. The council shall either reaffirm or modify the decision of the commission, and shall note the decision in the record of its hearing. The subdivider or landowner may then proceed with the subdivision of his land based upon the decision of the council. This decision shall be binding upon all agencies and administrative personnel of the village.
- (d) *Supporting materials for final plat; recording of final plat.*
- (1) *Required submittals.* A complete final plat submittal shall consist of the final plat as approved by the planning commission and all required supporting materials. Following approval of the final plat by the planning commission, the subdivider shall submit the following supporting material relating to the final plat to the planning department:
 - a. *Final plat checklist.* A final plat checklist shall be submitted on the standard forms provided.
 - b. *Drainage report.* A drainage report for the site in question and all pertinent off-site areas shall be prepared by a licensed engineer or hydrologist. The report shall examine 100-year storm flows (Q 100's), and the 100-year high-water mark of any river, creek, arroyo, gully, diversion ditch, spillway, reservoir, etc., that may in any way affect the project area, along with the depth of flow for 100-year runoff. The watershed in all off-site areas shall be considered fully developed. Intensities shall be for the area's one-hour 100-year storm based upon two inches per hour. Times of concentration (TC) used in the study shall provide for "C" to be 0.5 or greater, and the overlot flow time to gutters to be eight minutes, unless adequate evidence is provided to the contrary. A certificate shall be provided, signed and sealed by a registered professional engineer, that all drainage facilities utilizing gutters and streets are designed and sized to handle 100 percent of the Q 100 runoff.
 - c. *Soils report.* A soils report for the site in question and pertinent off-site areas shall be prepared by a licensed engineer or soil scientist. The report shall indicate the type and location of soils, using the unified soil classification system, shall contain drill logs and swell consolidation curves, and shall contain a discussion of any present or potential hazards associated with soils on the site along with measures which could be taken to mitigate such hazards. In addition, the soils report shall contain recommendations on subsurface area drains and peripheral drains, foundation design, erosion control measures and surface drainage.
 - d. *Grading, drainage and development plan.*

1. A grading, drainage and development plan shall be prepared at a scale of one inch equals 100 feet or larger showing rights-of-way, easements, walkways, parks, common areas, roadways, water lines and reservoirs, sewer lines, manholes and treatment facilities, curbs and gutters, culverts, drains, stormwater detention and retention basins, swales, ditches and other drainage devices, spot top of curb elevations, high and low street points, drainage arrows, street plans, all drainage areas and acreage, all 100-year storm flows (Q 100's) adjacent to and/or flowing onto the development and on-site at each surface flow junction, stormwater pickup and take-off points designed to handle 100-year flow on the surface, and cross sections and high water elevations for all 100-year flows. Spot elevations shall be given for all inverts, low points and flowing entry and exit points.
 2. For residential subdivisions, all minimum building setbacks shall be shown. No 100-year flow line shall encroach upon any minimum setback line.
 3. The following standards shall be used in preparation of the grading, drainage and development plan: 100-year storm flows shall not exceed 200 cfs per half street when feasible; pipes into which surface water flows will have a minimum diameter of 15 inches; and a capability for handling all Q 100's on the surface within the roadway. Exceptions and variations to these standards must be recommended by a licensed engineer and approved by the Public Works Department.
- e. *Construction plans and details.* Construction plans and details must be prepared by a registered professional engineer in the state and shall provide for all improvements indicated on the grading, drainage and development plan, including right-of-way and easement cross sections showing construction and placement of streets, walks, curbs, gutters, medians, swales, ditches, utilities, planting strips and property lines; details of hydrants, valves, manholes, pipe junctions, pumps, thrust-blocking, catchbasins, etc.; street profiles showing natural and finish grades, centerlines and both curbs, with a recommended minimum vertical scale of one inch equals 50 feet; sanitary sewer line and manhole profiles with natural and finished grades, showing area underdrains, if applicable, and the location of gravity outfall lines; storm drainage system profiles showing natural and finished grade; erosion control and revegetation details; and other details as necessary to adequately convey the design intent. Quantity take-offs shall also be provided.
- f. *Deeds.* When required by the village, assurance of a warranty deed or other acceptable instrument conveying to the village any public lands other than streets, alleys or easements shown on the final plat, and title insurance on the subject parcel, shall be presented to the village upon approval of the final plat. The method of assurance will be approved by the village attorney.
- g. *Fees in lieu of land.* Payment of any fees in lieu of public land dedication, or any initial payment and a payment schedule keyed to subdivision development, if the subdivision is to be phased, shall be submitted.
- h. *Title opinion.* Evidence satisfactory to the village must be submitted showing all taxes and assessments due on the property to be subdivided to be paid in full, showing title or control of the property to be subdivided, and showing the property to be subdivided as free and clear of any liens. An attorney's title opinion or ownership and encumbrance report from a land title company shall be considered satisfactory evidence.
- i. *Floodplain statement.* If a subdivision lies within the 100-year floodplain, the following statement shall appear on the face of the final plat and all contracts and agreements

relating to the subdivision: "This subdivision is (or the following lots are) located in the 100-year floodplain as defined by the Department of Housing and Urban Development."

j. **Performance bond.** A contractor's performance bond equal to 125 percent of the cost of required improvements to guarantee the complete and timely development of any facilities or improvements which are the subdivider's responsibility, subject to section 54-286(a)(1), shall be submitted.

- (2) **Agency review.** Upon submittal of all required supporting material to the final plat, the planning department shall review such material for completeness to determine whether a complete final plat submittal has been made and shall refer the material to appropriate agencies for review and comment. Upon being notified of the comments and any necessary approvals of reviewing agencies, the planning department shall forward the final plat, comments and approvals of reviewing agencies, pertinent supporting materials, and the recommendations of the planning commission to the council. Incomplete final plats, or final plats for which necessary approvals have not been secured, shall not be forwarded to the council for action.
- (3) **Council action.** Following receipt of the recommendation of the planning commission, along with the final plat and accompanying materials, the council shall either approve the final plat or disapprove the final plat and notify the subdivider of the conditions to be met to gain approval. If a disapproved final plat is modified and resubmitted to the council at a later date for its consideration, the council may require the concurrent submittal of an updated ownership and encumbrance report or title opinion.
- (4) **Filing with county clerk.** Upon approval of the final plat by the council, the subdivider shall be notified to submit payment for the recording fee to the planning department, and the department shall transmit the subdivider's recording fee and the duly approved and executed final plat to the county clerk and recorder for the filing of the final plat among the official records of the county.
- (5) **Alternate approval procedure.** As an alternate procedure and at the request of the subdivider, the council may approve a final plat and instruct the planning department to withhold the approved final plat from recording for a period of time to allow the subdivider to install all of the required public improvements according to the plans and specifications approved by the Public Works Department. This procedure, when approved by the council, shall be in lieu of the guarantees for installation of improvements as set forth in section 54-286(a)(1). An executed standard contract, as approved by the village, regarding installation of improvements shall be submitted with the final plat. The contract shall require that all improvements be completed no later than 12 months from the date the final plat was approved by the council and that no lot may be sold. When the completed improvements are inspected and approved by the Public Works Department, the plat shall be recorded by the planning department, and the sale of lots may proceed according to the approved and recorded plat, provided that a one-year warranty shall be submitted covering the completed improvements as per section 54-286(b)(2)c.2.
- (e) **Simultaneous submittal of preliminary and final plats.** For certain subdivisions, the subdivider may, after discussion with the planning department, simultaneously submit both the preliminary plat and the final plat. Depending on the size and complexity of the subdivision and the amount of street dedication, any or all of the information required in the preliminary and final plat processes may be submitted. The planning department shall determine which information must be submitted for adequate review of the subdivision. The preliminary and final plats may then be processed concurrently. It is possible for the preliminary and final plats to be one and the same instrument.
- (f) **Corrected plats and resubdivision.**
 - (1) If, after the approval and recording of a final plat, errors are found in the language or numbers on the recorded plat, the subdivider shall file a properly signed, corrected or revised original mylar or linen with the department. The plat shall be noted "Corrected Plat" under the name of the subdivision.

Notations shall be made on the face of the plat listing all corrections made and the book and page numbers where the original plat was recorded. The department shall review the plat for corrections, secure the signatures of the proper public officials on the corrected plat and present the plat to the council for the reaffirmation of its approval and to the county clerk for recording. The recording of the corrected plat shall void the incorrect original plat, and the county clerk shall note "Void" across the face of the incorrect plat.

- (2) If, after the approval and recording of a final plat, a subdivider wishes to modify the location of lot lines on part or all of the recorded plat, and if there is no change in the location or size of dedicated streets, the subdivider shall submit a new final plat drawing with the lotting arrangement revised. The planning department shall determine which of the required supporting documents shall be resubmitted with the revised final plat. The plat shall be marked "Resubdivision of _____" under the name of the subdivision and shall be processed as a final plat.
- (3) If, after the approval and recording of a final plat, a subdivider wishes to substantially change the street and lotting arrangement of a part or all of the platted area, the resulting subdivision shall be treated as a new submittal, with both a preliminary plat and a final plat required. Based on the current accuracy of the information submitted with the original plat and the magnitude of the change, the procedure described in subsection (e) of this section may be applied. The subdivision shall be identified as "Resubdivision of _____."

(g) *Alternate summary procedure for minor subdivisions.*

- (1) *Applicability.* In lieu of the requirements of NMSA 1978, § 3-20-7, the following procedure may be followed pursuant to NMSA 1978, § 3-20-8. Alternate summary procedures shall only apply to the following:
 - a. Subdivisions that create no more than two parcels of land or
 - b. Resubdivisions where the combination or recombination of portions of previously platted lots does not increase the total number of lots.
- (2) *Survey.* The filing of a survey by a New Mexico licensed or registered surveyor which contains a description of the subdivided land with ties to permanent monuments shall satisfy the requirements of NMSA 1978, § 3-20-7.
- (3) *Review by planning administrator.* All minor subdivisions submitted to the village shall be reviewed by the planning administrator, who may consult with other public or private agencies. The planning administrator shall determine whether or not the plat, as proposed, adequately provides for access and utility services to each lot. If the plat proposes to abandon an existing easement, the planning administrator shall verify with all applicable utility service providers that the easement is not needed.
- (4) *Conformance with subdivision regulations.* Any subdivision approved as authorized in this subsection shall be in substantial conformity with this article.
- (5) *Review and decision by planning commission.* Minor subdivision under this alternate summary procedure may be approved by the planning administrator and signed by the planning administrator and mayor. Review by the planning commission shall not be required except for those subdivisions which have been recommended for denial by the planning administrator and upon written request by the applicant.
- (6) *Review and decision by council.* Review and decision on minor subdivisions shall not be required by the council except for those which have been recommended for denial by the planning commission and upon written request by the applicant.

- (7) *[Endorsement of approval.]* Approval by this summary procedure shall be endorsed on the plat, or on the instrument of conveyance in lieu of a plat, and such approval shall be conclusive evidence of the approval by the village.

(Code 1985, § 10-10-3; Ord. No. 2008-11, 10-14-08; Ord. No. 2009-03, 1-13-09)

Sec. 54-284 ADMINISTRATION AND ENFORCEMENT.

(a) *Administration generally.*

- (1) This article shall be administered and enforced by the planning department or other agency as designated by the council.
- (2) All subdivision plats submitted to the village shall first have been examined by the planning department and the planning commission in accordance with the procedures established by this article. As part of their examination, the planning department and the planning commission may consult with other public or private agencies to determine whether or not the plat, as proposed, will contribute to the orderly growth and development of the village. The actions of the planning department, the planning commission and the council shall be governed by the procedures and schedules set forth in this article.
- (3) Pursuant to the provisions of NMSA 1978, §§ 3-20-5 and 3-20-7, when any part of a subdivision lies outside of but within three miles of the village, that subdivision shall be approved by the planning commission and the council before it is finally approved by the county board of commissioners.

(b) *Reserved.*

(c) *Variances.*

- (1) A request for variance may be submitted only after the planning commission has formally reviewed the preliminary plat and has either recommended disapproval because the plat does not conform to this article, or has conditionally approved the plat, specifying those amendments which must appear on the final plat in order for it to be approved. The subdivider may then seek relief from the specific provisions of this article with which he cannot comply.
- (2) When it can be shown that, in the case of a particular subdivision, strict compliance with the provisions of this article would cause undue hardship, the council may authorize a variance to this article provided that the general intent of this article is preserved, that the public interest is protected, and that such variances do not have the effect of nullifying the intent and purpose of the comprehensive plan or the zoning code (article II of this chapter). The granting of a variance shall be based upon findings by the council that:
 - a. The subdivider is proceeding in good faith.
 - b. There are unusual topographical or other special circumstances associated with the property which are not the result of any action of the subdivider and which prohibit the use of the property in a manner similar to the use of adjacent or nearby properties.
 - c. The variance is necessary for reasonable development of the property in question and will alleviate a clearly demonstrable hardship.
 - d. The variance will not nullify the intent or purpose of this article.
 - e. Granting the variance will not be detrimental to the general public health, safety and welfare.

- (3) Any variance granted shall constitute the minimum adjustment necessary to alleviate the hardship.
 - (4) All requests for variances shall be submitted in writing to the council and shall be referred to the planning commission for comments and recommendations prior to any action taken by the council. In granting a variance, compliance with the objectives and standards of this article must be ensured. The findings and action on each variance and any conditions imposed shall be recorded in the minutes of the council, and a copy thereof provided to the planning department.
 - (5) If the subdivision variance is granted by the council, the subdivider may incorporate the provisions of the variance into the final plat to be submitted to the planning commission and to the council for approval. In its review of the final plat, the planning commission shall be bound by the decision of the council regarding the variance and shall review and approve the final plat with the variance if the plat in all other respects conforms to the preliminary plat and any other conditions imposed by the planning commission.
- (d) *Plat vacations.*
- (1) Any plat may be vacated by the owners or proprietors thereof at any time before sale of any lots, or before any substantial improvements have been made in the subdivision, by submitting a copy of the plat to the planning commission along with a written request for a vacation. In the case where lots have been sold, the written request shall be by all of the owners of lots within the plat. The planning commission shall make a recommendation on the vacation to the council, and the council shall approve or disapprove the vacation. The recording of an instrument vacating the plat shall operate to destroy the force and effect of the recording of the original plat and to divest all public rights in the streets, alleys, and common and public grounds laid out or described in such a plat.
 - (2) Streets and alleys platted and laid out under the provisions of this article or laid out under any prior law of the state may be altered or vacated in the manner provided by law for the alteration or discontinuance of streets and highways.
 - (3) Any part of a plat may be vacated under the provisions and subject to the conditions of subsection (d)(1) of this section, provided such vacating does not abridge or destroy any of the rights and privileges of other proprietors in the plat, and provided further that nothing contained in this section shall authorize the closing or obstruction of any public highways laid out according to law. The request for vacation shall be made by all of the owners of lots within that portion of the overall plat sought to be vacated.
 - (4) When any part of a plat shall be vacated as provided in this section, streets, alleys and other public grounds shall be assigned to all lots or parcels adjacent to the public area being vacated in equal proportions.
 - (5) The county clerk shall write in plain, legible letters, across that part of the plat so vacated, the word "vacated," and also make a reference on the plat to the volume and page in which the instrument of vacation is recorded.
 - (6) Land covered by a vacated plat may be replatted as described by this article. Any replatting of an area already platted and not vacated shall be construed to be a request for the vacation of the original plat or portion thereof. Any such plat, once approved and recorded, shall act to vacate the original plat which it replaces.
- (e) *Penalty.* Any person who violates any provision of this article, and any person who, as an agent for a subdivider, developer or owner of subdivided lands, offers for sale any subdivided lands or subdivisions without first complying with the provisions of this article, shall, upon conviction, be punished in accordance with section 1-6.
- (f) *Exemption from liability.* The village shall hold harmless the planning department, other village agencies and officials, and their official agents and representatives, when acting in good faith and without malice, from all

personal liability for any damage that may accrue to any person or property as a result of any act required by this article, or for the omission of any act on the part of the department, agency or official or their authorized agents in the discharge of their duties under this article. Any suit brought against the village or village administration because of any such act or omission in the carrying out of the provisions of this article shall be defended by the village attorney through final determination of such proceedings.

(Code 1985, § 10-10-4; Ord. No. 2009-03, 1-13-09)

Cross reference(s)—Administration, ch. 2Cross reference(s)—.

Sec. 54-285 DESIGN STANDARDS.

(a) *Generally.*

- (1) *Conformance to applicable rules and regulations.* Subdivision design shall conform to the following:
 - a. The village zoning code (article II of this chapter);
 - b. The comprehensive master plan of the village, including all streets, drainage systems and parks shown on the comprehensive master plan as adopted;
 - c. The rules of the state highway department if a subdivision or any lot contained therein abuts a state highway or connecting street; and
 - d. The design standards and regulations adopted by the council.
- (2) *Restrictions imposed by owner.* If the owner places restrictions on any of the land contained in the subdivision greater than those required by the zoning code (article II of this chapter) or this article, such restrictions or reference thereto may be required to be indicated on the subdivision plat, or the planning commission may require that restrictive covenants be recorded with the county recorder of deeds.
- (3) *Monuments.* The applicant shall place permanent reference monuments in the subdivision as approved by a registered land surveyor and the Public Works Department.
- (4) *Land unsuitable for development.* Land which the planning commission finds to be unsuitable for subdivision or development because of flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the planning commission, upon recommendation of the Public Works Department, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses that shall not involve such a danger.
- (5) *Subdivision name.* The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by this article. The planning commission shall have final authority to designate the name of the subdivision, which shall be determined at the time of sketch plat approval.
- (6) *Other considerations*

Subdivision design shall consider the standards contained in the following adopted Village of Ruidoso documents. These documents may be obtained from the Public Works Department.

 - a. Resolution 2011-28 A Resolution Adopting the Village of Ruidoso Standard Drawings for Public Works Construction

b. Ruidoso New Mexico Roadway Design Guide, November 2019

(b) *Lots and lot improvements.*

- (1) *Lot arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning code (article II of this chapter) or in providing driveway access to buildings on such lots from an approved street.
- (2) *Lot dimensions.* Lot dimensions shall comply with the minimum standards of the zoning code (article II of this chapter). Where lots are more than double the minimum required area for the zoning district, the planning commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the zoning code and this article. In general, side lot lines shall be at right angles to street lines, or radial to curving street lines, unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum setback from both streets. Depth and width of properties reserved or laid out for business, commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the zoning code.
- (3) *Double frontage and reserved lots; access from arterial streets.*
 - a. *Double frontage and reserved lots.* Double frontage and reserved lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.
 - b. *Access from arterial streets.* Lots shall not, in general, derive access exclusively from an arterial street. Where driveway access from an arterial street may be necessary for several adjoining lots, the planning commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on such streets. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterial streets.
- (4) *Grading and drainage.*
 - a. *Final grading.* No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat.
 - b. *Lot drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot onto adjacent lots.
- (5) *Removal of debris and waste.* No cut trees, debris, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy.
- (6) *Fencing.* Each subdivider and/or developer shall be required to furnish and install fences wherever the council determines that a hazardous condition may exist. The fences shall be constructed according to standards established by the zoning code (article II of this chapter) and shall be noted as to height and material on the final plat. No certificate of occupancy shall be issued until the fence improvements have been duly installed.

(7) *Performance bond.*

- a. The performance bond shall include an of 125 percent of the cost of completion of all requirements contained in subsection (b) of this section or as certified by the council, including but not limited to soil preservation, final grading, lot drainage, removal of debris and waste, fencing and all other lot improvements required by the council.
- b. Whether or not a certificate of occupancy has been issued, at the expiration of the performance bond, the village may enforce the provisions of the bond where the provisions of this section or any other applicable law, ordinance or regulation have not been satisfied.

(c) *Roads.*

(1) *General requirements.*

- a. *Frontage on improved street required.* No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street indicated in the comprehensive plan or unless such street is:

- 1. An existing state, county or township highway; or
- 2. A street shown upon a plat approved by the council and recorded in the county clerk's office.

Such street or highway must be suitably improved as required by the highway rules, regulations, specifications or orders, or be secured by a performance bond as required under this article, with the width and right-of-way required by this article or the comprehensive plan. Wherever the area to be subdivided is to utilize existing road frontage, such road shall be suitably improved as provided in this subsection.

- b. *Grading and improvement plan.* Roads shall be graded and improved and conform to the village construction standards and specifications and shall be approved as to design and specifications by the Public Works Department, in accordance with the construction plans required to be submitted prior to final plat approval.
- c. *Topography and arrangement.*
 - 1. Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of this article.
 - 2. All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established in the comprehensive plan.
 - 3. Local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, to require the minimum number of streets necessary to provide convenient and safe access to property, and to maximize the preservation of trees and vegetation.
 - 4. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless, in the opinion of the council, such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

d. *Blocks.*

1. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, waterways, parks, or areas that will remain undeveloped such as steep slopes or forested areas.
2. The lengths, width and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed 600 feet or 12 times the minimum lot width required in the zoning district.
3. In long blocks the council may require the reservation of an easement through the block to accommodate utilities, drainage facilities, emergency access or pedestrian traffic.

e. *Limitation of access to arterial streets.* Where a subdivision borders on or contains an existing or proposed arterial street, the council may require that access to such street be limited by one of the following means:

1. The subdivision of lots so that the lots back onto the arterial street and front onto a parallel local street. No direct access shall be provided from the arterial street.
2. A series of culs-de-sac, U-shaped streets or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial street.
3. A marginal access or service road, separated from the arterial street by a planting or grass strip and having access thereto at suitable points.

f. *Street names.* Street names shall be sufficiently different in sound and in spelling from other street names in the village so as not to cause confusion. A street which exists or is planned as a continuation of an existing street shall bear the same name.

g. *Street signs.* The applicant shall deposit with the village, at the time of final subdivision approval, an amount equal to the cost of each street sign required by the Public Works Department at all road intersections. The village shall install all street signs before issuance of an occupancy permit for any residence on the streets approved. Street name signs are to be placed at all intersections within or abutting the subdivision. The type and location of signs are to be approved by the Public Works Department.

h. *Streetlights.* Installation of streetlights shall be required in accordance with design and specification standards approved by the Public Works Department.

i. *Continuation of streets between adjacent properties; dead-end streets.*

1. *Continuation of streets; temporary dead-end streets.* The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection or efficient provision of utilities, and where such continuation is in accordance with the village comprehensive plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary T- or L-shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The council may limit the length of temporary dead-end streets in accordance with the design standards

of this article.

2. *Permanent dead-end streets.* Where a street does not extend to the boundary of the subdivision and its continuation is not required by the council for access to adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the council may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac shall be provided at the end of a permanent dead-end street in accordance with construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of this article.

(2) *Design standards.*

- a. *Dimensions.* In order to provide for streets of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, fire protection, sanitation and street maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, Table 1 sets forth design standards for streets.

TABLE 1. DESIGN STANDARDS FOR STREETS

Improvement		Dimensions
Minimum width of right-of-way:		
	Local	50
	Collector	60
	Minor arterial	80'
	Principal	100'
Minimum pavement width (defined as face of curb to face of curb):		
	Local	30'
	Collector	40'
	Minor arterial	68'
	Principal	68'
Minimum radius of curve:		
	Local	273'
	Collector	273'
	Minor arterial	508'
	Principal	833'
Minimum centerline degree of circular curve:		
	Local	21.0°
	Collector	21.0°
	Minor arterial	11.3°
	Principal	6.9°
Minimum length of tangents between reverse curves:		
	Local	150'

Improvement		Dimensions
	Collector	150'
	Minor arterial	250'
	Principal	350'
Minimum sight distance:		
	Local	200'
	Collector	240'
	Minor arterial	275'
	Principal	300'
Minimum turnaround (local streets only):		
	Right-of-way diameter	100'
	Pavement	80'
Maximum length of cul-de-sac:		
	Permanent	600'
	Temporary	100'

- b. *Street surfacing and improvements.* After sewer and water utilities have been installed by the developer, the applicant shall construct curbs and gutters and shall surface or cause to be surfaced roadways to the widths prescribed in this article. The surfacing shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the Public Works Department. Adequate provision shall be made for culverts, drains and bridges.
- c. *Railroads and limited access highways.* (At this point in time there are no railroads in the village, but there have been numerous discussions on the possibility of a recreational railroad.) Railroad rights-of-way and limited access highways, where so located as to affect the subdivision of adjoining lands, shall be treated as follows:
 1. In residential districts, a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat as follows: "This strip is reserved for screening. The placement of structures, except for street signs and lighting, hereon, is prohibited."
 2. In districts zoned for business, commercial or industrial uses, the nearest street extending parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.
 3. Streets parallel to the railroad, when intersecting a street which crosses the railroad at grade, shall, to the extent practicable, be a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.
- d. *Intersections.*

1. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any one point unless specifically approved by the planning commission.
 2. A proposed new intersection along one side of an existing street shall, wherever practicable, coincide with any existing intersection on the opposite side of such street. Street jogs with centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersections of major streets shall be at least 800 feet apart.
 3. The minimum curb radius at the intersection of two local streets shall be 20 feet, and the minimum curb radius at an intersection involving a collector street shall be 25 feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.
 4. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.
 5. The cross-slopes on all streets, including intersections, shall be three percent or less.
- e. *Bridges.* Bridges of primary benefit to the applicant, as determined by the council, shall be constructed at the full expense of the applicant without reimbursement from the village. The sharing of expenses for the construction of bridges not of primary benefit to the applicant as determined by the council will be fixed by special agreement between the council and the applicant. The cost shall be charged to the applicant pro rata as the percentage of his land develops and is so served.
- (3) *Street dedications and reservations.*
- a. *New perimeter streets.* Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half streets. Where an existing half street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The council may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.
 - b. *Widening and realignment of existing streets.* Where a subdivision borders an existing narrow street or when the comprehensive plan or zoning regulations indicate plans for realignment or widening a street that would require the use of some of the land in the subdivision, the applicant shall be required to improve and dedicate, at his expense, such areas for widening or realignment of such streets. Such streets shall be improved and dedicated by the applicant, at his own expense, to the full width as required by this article. Land reserved for any road purposes may not be counted in satisfying yard requirements of the zoning code (article II of this chapter), whether the land is to be dedicated to the village

in fee simple or as an easement.

(4) Other considerations

- a. Road design shall consider the standards contained in the following adopted Village of Ruidoso documents. These documents may be obtained from the Public Works Department.
 - a. Resolution 2011-28 A Resolution Adopting the Village of Ruidoso Standard Drawings for Public Works Construction
 - b. Ruidoso New Mexico Roadway Design Guide, November 2019

(d) *Drainage and storm sewers.*

- (1) *General requirements.* The planning commission shall not recommend for approval any plat of a subdivision which does not make adequate provision for stormwater or floodwater runoff channels or basins. The stormwater drainage system shall be separate and independent of any sanitary sewer system. Storm drainage shall be accommodated in the streets and gutters unless otherwise indicated by the Public Works Department. Where storm sewers are required, the cost shall be borne by the developer for storm sewers to a size of eight inches. If over eight inches in size and determined to be for benefit outside of the subdivision, the costs may be shared, as determined by the council.
- a. *Accommodation of upstream drainage areas.* A culvert, gutter or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Public Works Department shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications, assuming conditions of maximum potential watershed development permitted by the zoning code (article II of this chapter).
- b. *Effect on downstream drainage areas.* The Public Works Department shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Local government drainage studies, together with such other studies as shall be appropriate, shall serve as a guide to needed improvement. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the council may withhold approval of the subdivision until provision has been made for the improvement of the potential condition in such sum as the council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.
- c. *Areas of poor drainage.* Whenever a plat is submitted for an area which is subject to flooding, the council may approve such subdivision provided that the applicant fills the affected area of the subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of 12 inches above the elevation of the maximum probable flood, as determined by the Public Works Department. The plat of such subdivision shall provide for an overflow zone along the bank of any stream or watercourse, of a width which shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone, nor shall any structure be erected or placed therein. The boundaries of the overflow zone shall be subject to approval by the Public Works Department.
- d. *Floodplain areas.* The council may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the 100-year floodplain of any stream. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading

Commented [PT19]: Are there bikeway and trail requirements that should be built into the design standards? Like a new road that is shown on a bike plan as a bikeway should be designed to accommodate that bikeway; a new subdivision must make provisions to continue bikeways or pedestrian trails, or something like that.

or dumping of earth, waste material or stumps, except at the discretion of the council.

(2) *Drainage easements.*

- a. *Required.* Where a subdivision is traversed by a watercourse, drainageway, channel or stream, a stormwater easement or drainage right-of-way shall be provided conforming substantially to the lines of such watercourse, and of such width and construction, or both, as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.
- b. Extent; dedication; preservation of drainageways.
 1. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements of at least 15 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
 2. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.
 3. The applicant shall dedicate, either in fee simple or by drainage or conservation easement, land on both sides of existing watercourses, to a distance to be determined by the council.
 4. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainageways. Such land subject to periodic flooding shall not be computed in determining the numbers of lots to be utilized for average density procedures, or for computing the area requirement of any lot.

(e) *Water facilities.*

(1) *General requirements.*

- a. When necessary, action shall be taken by the applicant to extend or create a water supply district for the purpose of providing a water supply system capable of providing domestic water use and fire protection.
- b. Where a public water main is accessible, the subdivider shall install adequate water facilities, including fire hydrants, subject to the specifications of the Public Works Department. All water mains shall be at least six inches in diameter.
- c. Water main extensions shall be approved by the Public Works Department.
- d. To facilitate these requirements, the location of all fire hydrants, all water supply improvements, and the boundary lines of proposed districts, indicating all improvements proposed to be served, shall be shown on the preliminary plat, and the cost of installing such improvements shall be included in the performance bond to be furnished by the developer.

- (2) *Fire hydrants.* Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located no more than 400 feet apart and shall be located at every intersection and shall be approved by the village fire chief. To eliminate future street openings, all underground utilities for fire hydrants, together with the

fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on the subdivision plat.

- (3) *Community or individual water systems; water availability plan.* Where a public water system is not available, and the planning commission determines that the public system cannot be reasonably extended, a water availability plan shall be submitted for approval by the planning commission as provided in this subsection. Water quality and the water system location shall be approved by the environmental improvement division of the state.
- a. *Compliance with New Mexico Water Law.* Under NMSA 1978, § 72-12-1, it is the state engineer's policy to grant a domestic permit only to the person who, in good faith, intends to use the water for household or other domestic purpose. The permit is limited to a diversion of three acre-feet per annum, which may be used to irrigate not more than one acre of noncommercial trees, lawn or garden, and for household or other domestic use. If more than one household use per well is proposed, then no more than one acre of noncommercial trees, lawn or garden may be irrigated from the well and the total withdrawal from the well shall be metered and limited to three acre-feet per year for all uses. If two or more wells obtained under provisions of NMSA 1978, § 72-12-1 are tied into the same distribution system, the total withdrawals shall be limited to three acre-feet per annum. If the total withdrawal is to exceed three acre-feet per annum from any well or group of wells that supply a common system, it will be necessary for the subdivider or users to obtain water rights.
- b. *Water availability plan; documentation of water availability.* Any person seeking approval of a subdivision plat must submit a water availability plan for either a community water system or individual wells.
1. The subdivider shall provide information showing the fire flow the proposed water supply system can deliver throughout the subdivision in gallons per minute and the time duration such flow can be maintained.
 2. The subdivider shall provide the following documentation, where applicable:
 - i. If the subdivider proposes that a utility certified by the state public service commission provide water, the subdivider shall provide documentation that the subdivision is located within the service area of the utility or that the utility is ready, willing and able to provide water to the subdivision.
 - ii. If the subdivider proposes that a municipality, private utility company or any other private party provide water, the subdivider shall provide documentation that the municipality, company or party is ready, willing and able to provide water to the subdivision. The documentation shall contain a statement from the municipality, company or party indicating the quantity of water available to the subdivider and any conditions or limitations pertaining to the use of water.
- c. *Standards for community water systems.*
1. The subdivider shall provide water from existing or proposed water supply systems for domestic use, fire protection and any other use that the subdivider proposes.
 2. The subdivider shall provide for the completion of the proposed water supply systems in accordance with applicable minimum design standards of the state environmental improvement division, and as approved by the village.

3. The provisions for fire flow shall be in accordance with the guidelines of the insurance services office and good engineering practice.
 4. The subdivider shall ensure the availability of sufficient potable water for the fully developed subdivision.
- d. *Submittal requirements for community water systems.* The following shall be prepared by or under the supervision of a registered professional engineer and shall be adequate for the purpose of subsection (e)(3)c of this section:
1. Plans and specifications for diversion, storage and distribution facilities, and a time schedule for their completion.
 2. Information showing the volume and peak rate of production of water required in each month to supply each use at full development of the subdivision.
 3. A geohydrologic report, if part or all of the supply is to be obtained from groundwater sources, containing the following information:
 - i. Geologic maps, cross sections and descriptions of the aquifer systems proposed for production, including information concerning the hydrogeologic boundaries, intake areas and locations of discharge of those aquifers.
 - ii. Maps and cross sections showing the depth to water, water level contours, direction of groundwater movement and the estimated thickness of saturation in the aquifers.
 - iii. Probable yields of the proposed wells, in gallons per minute and acre-feet per year, and probable length of time that the aquifer system will produce water at rates sufficient to meet the demands under full development of the subdivision. This information shall be based on pump test analysis, hydrogeologic boundaries, aquifer leakage and historic water level changes, logs and yields of existing wells and, when the planning commission deems necessary, test wells and aquifer performance tests. This information will give consideration to mutual interference of the proposed wells, and the interference of existing wells.
 - iv. A 40-year schedule of the effects of the projected water withdrawals for the subdivision on water levels and natural discharge.
 - v. A water quality analysis, which shall conform to state standards of the environmental improvement division.
 4. A hydrologic report, if part or all of the supply is to be obtained from surface water sources, containing the following information:
 - i. Source of water supply.
 - ii. Drainage area above the point of diversion.
 - iii. Analysis of relevant historical runoff records.
 - iv. Projected water supply available for the subdivision requirements.
- e. *Individual water systems.*
1. Domestic water supply may be provided by the subdivider or by the purchaser or lessee of each parcel at his own expense.

2. If the water supply is to be provided by the subdivider, the regulations of subsections (e)(3)b and d of this section shall apply.
 3. If the water supply is provided by the owner or lessee of each parcel, the regulations of subsections (e)(3)d.3 and 4 of this section shall apply.
- f. *Potable water supply required; approval by state.* Where a public water system is not available and the planning commission determines that the public water system cannot be reasonably extended to any lot, group of lots or subdivision, the subdivider or developer shall install a community or individual water supply system capable of providing safe potable water for domestic use. System design and water quality shall be approved by the environmental improvement division of the state.
- (f) *Sewage facilities.*
- (1) *Required.* The applicant shall install sanitary sewer facilities in a manner prescribed by the construction standards and specifications. All plans shall be designed in accordance with the rules, regulations and standards of the Public Works Department.
 - (2) *General standards.* Sanitary sewage facilities shall connect with the public sanitary sewage system unless such connection is not available. Sewers shall be installed to serve each lot and to grades and sizes required by approving officials and agencies. Sanitary sewage facilities, including the installation of laterals in the right-of-way, shall be subject to the specifications, rules, regulations and guidelines of the Public Works Department.
 - (3) *Private sewage systems.*
 - a. Where public sanitary sewage systems are not reasonably accessible, but will become available within a reasonable time, not to exceed 20 years, the village may allow one of the following alternatives:
 1. A central sewage system, with the maintenance cost to be assessed against each property benefited. Where plans for future public sanitary sewage systems exist, the applicant shall install the sewer lines, laterals and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains; or
 2. Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made. Sewer lines shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exists, and shall be ready for connection to such public sewer main.
 - b. Where sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of 20 years, the village may allow the installation of sewage systems as follows:
 1. Medium-density residential district: A central sewage system only shall be used. No individual disposal system will be permitted. Where plans exist for a public sewage system to be built, for a period in excess of 15 years, the applicant shall install all sewer lines, laterals and mains to be in permanent conformance with such plans and ready for

connection to such public sewer main.

2. Low-density residential district (less than one dwelling unit per acre): Individual disposal systems or central sewage systems shall be used.

- (4) *Connection to public system.* If a public sanitary sewer is accessible within 200 feet and a sanitary sewer is placed in a street or alley abutting upon property, the owner thereof shall be required to connect to the sewer for the purpose of disposing of waste, and it shall be unlawful for any such owner or occupant to maintain upon any such property an individual sewage disposal system.
- (5) *Use of individual sewage disposal systems.* If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the zoning code (article II of this chapter) and percolation tests and test holes shall be made as directed by the New Mexico Environment Department (NMED) and the results submitted to the NMED. The individual disposal system, including the size of septic tanks and size of the tile fields or other secondary treatment devices, shall also be approved by the NMED.
- (6) *Design criteria for sanitary sewers.*
- a. *Deviations from standards.* These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances where considered justified by the Public Works Department.
- b. *Design factors.* Sanitary sewage systems should be designed for the ultimate tributary population. Consideration should be given to current zoning regulations and approved planning and zoning reports where applicable. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewage and industrial waste, together with an adequate allowance for infiltration and other extraneous flow. The unit design flows presented in this subsection should be adequate in each case for the particular type of development indicated. Sewers shall be designed for the total tributary area using the following criteria:

		cfs/acre*
One- and two-family dwellings		0.02
Apartments, townhouses and condominiums:		
	One- and two-story	0.02
	Three- through six-story	0.03
Commercial: Small stores, offices and miscellaneous businesses		0.02
Shopping centers		0.02
High-rise and industrial buildings		As directed by the Public Works Department

*Cubic feet per second per acre.

These design factors shall apply to watersheds of 300 acres or less. Design factors for watersheds larger than 300 acres and smaller than 1,000 acres shall be computed on the basis of a linear decrease from the applicable design factor for an area of 300 acres to a design factor of 0.01 cfs/acre for an area of 1,000 acres, unless otherwise directed by the Public Works Department. Design factors for watersheds larger than 1,000 acres shall be 0.01 cfs/acre unless otherwise directed by the Public Works Department.

- c. *Maximum size.* The diameter of sewers proposed shall not exceed the diameter of the existing or proposed outlet, whichever is applicable, unless otherwise approved by the Public Works Department.
- d. *Minimum size.* No public sewer line shall be less than six inches in diameter.
- e. *Minimum slope.* All sewers shall be designed to give mean velocities, when flowing full, of not less than 2.7 feet per second. All velocity and flow calculations shall be based on the Manning Formula using an “N” value of 0.013. The design slopes shall be evenly divisible by four. The slopes shall be a minimum for the size indicated. Exceptions to these minimum slopes shall be made at the upper end of lateral sewers serving less than 30 houses. The sewers shall have a minimum slope of 0.76 percent. Where lateral sewers serve less than ten houses, the minimum slope shall be not less than one percent. The following table lists minimum slopes for various sewer sizes:

TABLE 2. MINIMUM SLOPES BY SEWER SIZE

Sewer Size (inches)	Minimum Slope (feet per 100 feet)
8	0.60
10	0.44
12	0.36
15	0.28
18	0.24
21	0.20
24	0.16

- f. *Alignment.* All sewers shall be laid with straight alignment between manholes, unless otherwise directed or approved by the Public Works Department.
- g. *Manhole location.* The difference in elevation between any incoming sewer and the manhole invert shall not exceed 12 inches, except where required to match crowns. The use of drop manholes will require approval by the Public Works Department. The minimum inside diameter of the manholes shall conform to those specified by the Public Works Department. Inside drop manholes will require special consideration; however, in no case shall the minimum clear distance be less than that indicated in this subsection. When a smaller sewer joins a larger one, the crown of the smaller sewer shall not be lower than that of the larger one. The minimum drop through manholes shall be 0.2 feet.

- h. *Sewer locations.* Sanitary sewers shall be located within streets or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be provided to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley rights-of-way where possible. Imposed loading shall be considered in all locations. Not less than six feet of cover shall be provided over the top of the pipe in street and alley rights-of-way, or three feet in all other areas.
 - i. *Cleanouts and lampholes.* Cleanouts and lampholes permitted by the village shall be required by the Public Works Department on all service laterals.
 - j. *Water supply interconnections.* There shall be no physical connection between a public or private potable water supply system and sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.
 - k. *Relationship of sewers to water mains.* A minimum horizontal distance of seven feet shall be maintained between parallel water and sewer lines. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe or encased in concrete or a metal sleeve for a distance of ten feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water main is at least two feet above the sewer line.
- (7) *Liquid waste management plan; community and individual liquid waste systems.* Where a public sewer system is not available, and the planning commission determines that the public system cannot be reasonably extended, a liquid waste management plan approved by the environmental division of the state health and environment department shall be submitted for approval of the planning commission.
- a. *Plan required.* Any person seeking approval of a subdivision plot must submit a liquid waste management plan to the planning commission for either a community or individual liquid waste (sewer) system.
 - b. *Standards for community systems.* Requirements for community liquid waste systems are as follows:
 - 1. Design and complete construction of the community system, by the time required in the approved plan, in compliance with all applicable water quality control regulations in effect at the time of final plat approval.
 - 2. Connection to the community system for the occupants within the subdivision in accordance with the requirements of the approved plan.
 - 3. Provisions for the operation, maintenance and expansion of the community system to meet the growth in population of the subdivision in a manner consistent with the approved plan and consistent with all applicable water quality control regulations in effect at the time of final plat approval.
 - c. *Required submittals for community systems.* Information requirements for community liquid waste systems are as follows:
 - 1. A legal description of the location of all construction, easements and rights-of-way necessary for the installation of the community liquid waste treatment system.
 - 2. Plans and specifications, prepared by a professional engineer registered in the state, for the construction of the system.

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3. The time when the community system is to be completed.
4. If the proposal is to connect to an existing community liquid waste system, plans and specifications for the liquid waste collection system within the subdivision and the connecting system, and a description of the existing system.
5. The projected population of the subdivision, based upon four persons per household.
6. A subdivision improvements agreement which guarantees:
 - i. The construction and operation of any liquid waste treatment system required as shown in the final plat documents and plans.
 - ii. Collateral in the form of a performance bond or other means to adequately ensure the complete construction and operation of the system in accordance with design and time specifications.
 - iii. Certification of the operator of the system.
 - iv. Involvement, as prescribed in the final plat documents, of a homeowners' association or community association.
- d. *Standards for individual systems.* Individual liquid waste disposal systems and privies may not be approved by the planning commission for use within a subdivision unless the following standards are met:
 1. Such systems shall be located so as not to potentially contaminate or pollute any drinking water supply, watercourse or body of water.
 2. Such systems shall be located so as not to potentially degrade any recreational resources.
 3. Such systems shall not create a nuisance.
 4. Such systems shall not be located in areas where there is evidence that similar individual systems have caused significant groundwater contamination or high nutrient levels in any body of water.
 5. Such systems shall not be located in areas where there is evidence that they will cause hazards to health or to the environment.
 6. The distance between a well and a tank used as part of an individual liquid waste disposal system must be no less than 50 feet.
 7. The distance between a well and an absorption field that is part of an individual liquid waste disposal system must be not less than 100 feet.
 8. The distance between a well or body of water used as a public water supply and an absorption field or tank used as part of an individual liquid waste disposal system must be no less than 200 feet.
 9. The distance between an absorption field or tank used as a part of an individual liquid waste disposal system and the nearest boundary of a floodway must be no less than 100 feet.
 10. Privies may not be approved by the planning commission for use within a subdivision unless the subdivider demonstrates to the satisfaction of the planning commission, in consultation with the state environmental improvement division, that they will be located and operated in a manner which will not potentially contaminate any drinking water supply, potentially pollute any body of water, create a nuisance or cause a potential danger to public health.

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- e. *Soil limitations for individual systems.* Individual liquid waste disposal systems may not be approved for use within a subdivision characterized by severe limitations under standards prescribed by the EID and CID of the state. In addition, individual liquid disposal systems shall not be approved for use within a subdivision where a percolation rate of less than six minutes per inch and a seasonal high water table of less than 20 feet exist together.
- f. *Minimum lot size for individual systems.* Individual liquid waste disposal systems may not be approved by the planning commission for use within a subdivision unless the parcels on which they will be used conform to the minimum lot sizes required by the EID and CID of the state.
- g. *Submittal requirements for individual systems.* Submittals for individual liquid waste disposal systems are as follows:
 - 1. A copy of the subdivider's disclosure statement relating to liquid waste disposal.
 - 2. The location of all proposed and existing wells, sewage absorption areas, community sewage systems and community water supply systems within the proposed subdivision and within 300 feet of the proposed subdivision boundary.
 - 3. The location of all arroyos, drainage areas and bodies of water within the proposed subdivision and within 300 feet of the proposed subdivision boundary.
 - 4. The soil depth throughout the area of the proposed subdivision.
 - 5. Soil classification or percolation tests, or both.
 - 6. The depth to the seasonal high water table.
 - 7. The slope of the ground within the proposed subdivision.
 - 8. The flood frequency of areas within the proposed subdivision.
 - 9. A detailed description of the kind of individual liquid waste disposal system that is to be used by the occupants of the subdivision.
 - 10. The projected population of the subdivision, based upon four persons per household.

(g) *Sidewalks and curbs.*

- (1) Sidewalks shall be included within the dedicated non-pavement right-of-way of all streets as illustrated in table 3.
- (2) Concrete curbs and gutters are required for all streets where sidewalks are required by this article or where required at the discretion of the planning commission and council.
- (3) Sidewalks shall be improved as required in subsection (c)(2)b of this section. A median strip of grass or landscaped areas at least two feet wide shall separate all sidewalks from adjacent curbs.

TABLE 3. SIDEWALK REQUIREMENTS

Type of Street	Sidewalk Requirement
Local	Optional (at council directive)*
Collector	Both sides, 4 feet wide
Arterial	Both sides, 5 feet wide

*But, where provided, four feet wide.

(h) *Underground installation of utilities; utility easements.*

- (1) *Underground installation.* All utility facilities, including but not limited to gas, electric power, telephone and cable television facilities, shall be located underground throughout the subdivision. Wherever existing utility facilities are located above ground, except where existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
- (2) *Easements.*
 - a. Easements centered on rear lot lines shall be provided, where necessary, for utilities (private and municipal). Such easements shall be at least ten feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.
 - b. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements of at least ten feet in width shall be provided along side lot lines, with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

(i) *Public land dedication, parks and open space.*

- (1) *Public uses shown on comprehensive plan.* Where a proposed park, playground, open space or other public use shown on the comprehensive plan is located in whole or in part in a subdivision, the planning commission and council shall require that such area be shown on plats in accordance with the requirements specified in this section. Such area shall be dedicated to the village by the subdivider if the council approves such dedication.
- (2) *Public uses not shown on comprehensive plan.* Where such other areas or sites of a character, extent and location suitable to the needs created by the type of development proposed for a subdivision are deemed essential by the planning commission for the orderly provision of areas or sites for public services or facilities and which development was not anticipated by the master plan, the planning commission shall require the subdivider to indicate such areas or sites on the subdivision plat, and, if deemed necessary by the planning commission and the council, such area shall be dedicated to the village by the subdivider.
- (3) *Dedication of recreation space required.* Before any subdivider shall receive final plat approval for a subdivision of land lying within the corporate limits of the village, or land which is to be annexed to the village prior to the approval of the final plat, the subdivider shall dedicate to the village an area of land to be used by the village for a neighborhood recreation space. The provisions of this subsection shall not apply to replats of land already subdivided.
- (4) *Calculation of required recreation space.* The amount of land to be dedicated shall be equal to the recreation space demand created by the subdivision and development of the land subdivided. The recreation space demand shall be computed on the projected requirement of 3.75 acres per 1,000 population generated. The number of persons the development of the subdivided land would generate as future residents of the area will be computed on the following formula:
 - a. For subdivision of land lying within an R-1 or R-2 residential zoning district or single-family lots platted in an R-2 residential zoning district, the population shall be computed as the

- number of single-family lots contained in the subdivision multiplied by 3.11 persons.
- b. If the subdivider of property within an R-3 residential zoning district has building plans ready to submit to the building official, showing the units to be built on the subdivided property or any portion thereof, the following formula shall be used to determine the population to be generated by this property: the number of family units contained multiplied by 2.60 persons.
 - c. If the subdivider of property within an R-4 multiple-family zoning district has building plans ready to submit to the building official, showing the units that will be built on the subdivided property or any portion thereof, the following formula shall be used to determine the population generated by this property:
 - 1. The number of studio units multiplied by 1.30 persons; plus
 - 2. The number of one-bedroom units multiplied by 1.73 persons; plus
 - 3. The number of two-bedroom units multiplied by 2.60 persons; plus
 - 4. The number of three- or more bedroom units multiplied by 3.46 persons; plus
 - 5. The number of townhouse units multiplied by 2.60 persons.
 - d. For subdivision of land lying within an M-1 low-density mobile home district, the population shall be computed as the number of lots in the mobile home subdivision multiplied by 3.11 persons.
 - e. For subdivision of land lying within an M-2 medium-density mobile home district, the population shall be computed as the number of lots in the mobile home subdivision multiplied by 2.60 persons.
 - f. If the subdivider of property within a multiple-family zoning district does not have plans ready to submit to the building official showing the units to be built on the subdivided property or any portion thereof, the following formula shall be used to determine the population to be generated by this property:
 - 1. If the property is in an R-2 residential district, the number of persons generated will be calculated by multiplying 3.11 persons times 6.20 units per acre, times the number of net acres in the subdivision for single-family development, and times 9.70 units per acre for duplexes. Net acreage shall include all acreage, including public easements not dedicated to the village, in fee simple.
 - 2. If the property is located in an R-3 residential district or R-4 multiple-family district, the number of persons generated by the development will be calculated by multiplying 2.60 persons times 16.0 units per acre, times the number of acres in the subdivision for R-3 development, and times 22.0 units per acre for R-4 development.
- (5) *Payment of recreation space demand fee in lieu of dedication of land.* In lieu of the land required to be dedicated by subsection (i)(3) of this section, the subdivider may choose to pay the village a recreation space demand fee. The amount of the fee shall equal the number of persons the future development of the subdivision will generate as calculated under subsection (i)(4) of this section, multiplied by the per-person fee based on per-acre value of land being subdivided within the village.
- (6) *Appraisal of value of land for purpose of recreation space demand fee.* For the purpose of computing the recreation space demand fee, the fair market value of the raw land lying within the subdivision shall be an amount determined in an appraisal obtained by the village from a qualified appraiser who is a resident of the county. If the developer does not feel the amount so determined fairly reflects the

market value of the raw land lying within the subdivision, the developer may obtain, at his own expense, an additional appraisal from a qualified professional appraiser approved by the village. The appraisal done by such approved appraiser shall be binding on the village.

- (7) *Payment of recreation space demand fee when proposed land is unsuitable.* If the council, prior to approving the final plat, finds that the land offered to be dedicated by the developer is inappropriate for use as recreation space because the land offered for dedication does not lie within the designated planned park sites for the area, or is not usable as a village park because of rough topography, susceptibility to flooding, inaccessibility or limited size, or does not meet other reasonable standards for land to be used as recreation space, the developer will be required to pay the fee in lieu of land as provided in subsection (i)(5) of this section.
- (8) *Deferral of dedication or fee payment.* Ordinarily, the recreation space demand fee shall be deposited with the village clerk prior to the approval of the final plat. However, if the council determines that immediate payment of the fee will work a hardship on the developer, or other circumstances so dictate, it may allow the developer to enter into an agreement with the village providing for future dedication of land or payment of the fee, provided that such agreement is accompanied by a good and sufficient surety bond in the amount of the required fee ensuring faithful performance of the agreement for future dedication or payment.
- (9) *Disposition and use of recreation space demand fees; refunds.* All fees collected pursuant to this subsection shall be deposited by the village in a fund known as the Village of Ruidoso Recreational Space Purchase and Improvement Fund. Monies deposited into the fund shall not be expended for any purpose other than to purchase and/or make improvements on land to be used as public recreational area located within one mile from an exterior boundary of the subdivision for which the fees were paid. If the village does not either purchase property or make improvements on property designated as public recreational area within one mile from the exterior boundary of the subdivision for which the fee was paid within a ten-year period from the date of such payment, the developer shall be refunded, at the expiration of the ten-year period, an amount equal to the fee, plus interest at the rate of six percent. Such refund, however, shall only be made after the developer, or his entire heirs or assigns, presents the village with a written request for such refund containing a statement as to the name of the subdivision for which the fee was paid, the date the fee was paid, and such other information as may be necessary to establish that a refund is due.
- (10) *Recovery of dedicated property by donor.* If land dedicated to the village for use as public recreation space is not improved or dedicated as natural open space and used as public recreation space within a period of ten years, the donor of the property or his successors in interest may institute an action to recover the property pursuant to NMSA 1978, § 70-1-45.
- (11) *Form of dedication.* The dedication of land required by this subsection shall be by warranty deed or dedication on a plat of the subdivision filed of record with the county clerk. All deeds and dedications purporting to dedicate land to the village pursuant to this subsection shall be approved by the village attorney.

This subsection shall not apply to subdivisions for which preliminary plat approval has been obtained prior to the effective date of the subdivision regulations in this article, adopted June 28, 1988, by Ordinance No. 88-6.

(Code 1985, § 10-10-5)

Sec. 54-286 COMPLETION OF IMPROVEMENTS.

- (a) *Generally; performance bond; acceptance of dedication offers.*

(1) *Performance bond.*

- a. The council shall require that the applicant post a bond at the time of application for final subdivision approval in to secure to the village the satisfactory construction, installation and dedication of the required improvements. The performance bond shall also secure all lot improvements on the individual lots of the subdivision as required in this article. The amount of the bond shall be 125 percent of the cost of the installation and materials necessary to complete the subdivision.
- b. Such performance bond shall comply with all statutory requirements and shall be executed by a surety company holding a license to do business in the State of New Mexico, and acceptable to the Village of Ruidoso on a form approved by the village, in an amount of 125 percent of the cost of the improvements as certified by the council. The performance bond shall be satisfactory to the village attorney as to form, sufficiency and manner of execution, as set forth in this article. The period within which required improvements must be completed shall be specified by the council in the resolution approving the final subdivision plat and shall be incorporated in the bond, and shall not in any event exceed two years from the date of final approval.
- c. Such bond shall be approved by the council as to amount and surety and conditions satisfactory to the council. The planning commission may, upon proof of difficulty, recommend to the council extension of the completion date set forth in such bond for a maximum period of one additional year. The council may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the planning commission.

(2) *Alternative to performance bond.* As an alternative to requiring a contractor's performance bond, the council, at its discretion, may allow the procedures for completion of improvements described in section 54-283(d)(5).

- (3) *Temporary improvements.* The applicant shall build and pay for all costs of temporary improvements required by the council and shall maintain the temporary improvements for the period specified by the council. Prior to construction of any temporary facility or improvement, the developer shall file with the Public Works Department a separate performance bond for temporary facilities, which bond shall ensure that the temporary facilities will be properly constructed, maintained and removed.
- (4) *Payment of costs of improvements.* All required improvements shall be made by the applicant, at his expense, without reimbursement by the village or any improvement district therefor.
- (5) *Guarantees by governmental units.* Governmental units to which the bond and contract provisions of this section apply may file, in lieu of the contract or bond, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this section.
- (6) *Failure to complete improvements.* For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the council in the resolution approving the plat, the approval shall be deemed to have expired. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the village may thereupon declare the bond to be in default, call on the bond, and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.
- (7) *Acceptance of dedication offers.* Acceptance of formal offers of dedication of streets, public areas, easements and parks shall be by resolution of the council. The approval by the council of a subdivision

plat shall not be deemed to constitute or imply the acceptance or maintenance by the council of any street, easement or park shown on the plat. The council may require the plat to be endorsed with appropriate notes to this effect.

(b) *Inspection of improvements.*

- (1) *Required; fees; liability of applicant and bonding company.* The council shall provide for inspection of required improvements during construction and to ensure their satisfactory completion. The applicant shall pay to the village an inspection fee as set forth in Appendix A to this Code. The inspection fee shall be computed based on the amount of the performance bond or the estimated cost of required improvements, and the subdivision plat shall not be signed by the mayor unless such fee has been paid at the time of approval. If the Public Works Department finds upon inspection that any of the required improvements have not been constructed in accordance with the village's construction standards and specifications, the applicant shall be responsible for completing the improvements. Wherever the cost of improvements is covered by a performance bond, the applicant and the bonding company shall be severally and jointly liable for completing the improvements according to the specifications.

(2) *Release or reduction of performance bond; maintenance of improvements.*

- a. *Certificate of satisfactory completion.* The council will not accept dedication of required improvements, or release or reduce a performance bond, until the Public Works Department has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer or surveyor has certified to the Public Works Department, through submission of a detailed as-built survey plat and construction plans of the subdivision, prepared on Mylar, indicating location, dimensions, materials and other information required by the council or Public Works Department, that the layout of the line and grade of all public improvements is in accordance with the construction plans for the subdivision and that a title insurance policy has been furnished to and approved by the village attorney indicating that the improvements have been completed, are ready for dedication to the village and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation, the council shall thereafter accept the improvements for dedication in accordance with the established procedure.
- b. *Reduction of performance bond.* A performance bond may be reduced upon actual dedication of public improvements, and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event shall a performance bond be reduced below 25 percent of the principal amount unless all improvements have been dedicated, in which case the bond may be reduced to zero, provided a maintenance bond is posted.
- c. *Maintenance of improvements; maintenance bond.*
 1. The applicant shall be required to maintain all improvements within the subdivision and/or on the individual subdivided lots for a period of one year following completion of the improvements or until acceptance of the improvements by the council. If there are any certificates of occupancy on a street where improvements have not been dedicated to the village, the village may, on 12 hours' notice, effect emergency repairs and charge the costs to the applicant.
 2. The applicant shall be required to file a maintenance bond with the council prior to dedication in the amount of ten percent of the improvement costs, in a form satisfactory to the village attorney, in order to guarantee that all workmanship and materials, including all lot improvements on the individual subdivided lots, shall be free

Commented [PT22]: Do you want to put a requirement that the improvements have to encompass a certain area, like a whole block, prior to reducing the bond?

Commented [PT23]: Or designee

from defects for a period of one year after the date of their acceptance by the council and dedication of the improvements to the village.

(c) *Deferral or waiver of required improvements.*

- (1) The council may defer or waive, at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interest of the public health, safety and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.
- (2) Whenever it is deemed necessary by the council to defer the construction of any improvement required in this article because of incompatible grades, future planning, or inadequacy or lack of connecting facilities, or for other reasons, the applicant shall pay his share of the costs of the future improvements to the village prior to signing of the final subdivision plat, or the applicant may post a bond ensuring completion of the improvements upon demand by the council.

(d) *Issuance of building permits and certificates of occupancy.*

- (1) Where a performance bond has been required for a subdivision, no building permit for any building in the subdivision shall be issued prior to the completion of the improvements and dedication of the improvements to the village, as required in the council's final approval of the subdivision plat.
- (2) No certificate of occupancy for any building in the subdivision shall be issued prior to completion, inspection and approval by the Public Works Department and dedication to the village of all utilities required to serve the building for which a certificate of occupancy is requested.
- (3) The extent of street improvements shall be adequate for vehicular access by the prospective occupant and by police and fire protection equipment, prior to the issuance of an occupancy permit.
- (4) No building permit shall be issued for the final ten percent of lots in a subdivision (or, if ten percent is less than two, for the final two lots of a subdivision) until all public improvements required by the council for the plat have been fully completed and dedicated to the village.
- (5) For the purpose of allowing the early construction of model homes in a subdivision, the planning commission, at its discretion, may permit a portion of a major subdivision involving no more than four lots to be created in accordance with the procedures of section 54-283(e), provided such portion derives access from an existing village, township, county or state highway, and provided no future road or other improvement is anticipated where the lots are proposed. The subdivision plat for the "minor" portion shall be submitted to the planning commission simultaneously with the preliminary plat for the entire major subdivision. Subsequent to preliminary plat approval, the model may be constructed, subject to such additional requirements that the planning commission may require.

Commented [PT24]: Should this be for building permits only to not allow construction to start until improvements are in place for the building? This would include having to complete improvements for an entire block of a subdivision if you put that provision in--reducing the performance bond only when a full block is complete.

(Code 1985, § 10-10-6; Ord. No. 2007-09, 9-11-07)

Sec. 54-287 FEES.

Fees for permits, inspections and administrative functions associated with the community development department shall be set or revised from time to time by the planning official with the concurrence of the village manager. The fees are to be reviewed and recommended by the planning and zoning commission to the governing body for approval by resolution.

(Code 1985, § 10-10-7; Ord. No. 2019-02, 3-12-19)

Sec. 54-288 CERTAIN DESIGN AND CONSTRUCTION STANDARDS SAVED FROM REPEAL.

Design and construction standards for streets, storm drainage, water and sanitary sewers are not printed in this Code, but are saved from repeal and are on file and available in the offices of the planning administrator and the village clerk.

Sec. 54-289 —54-320. RESERVED.

ARTICLE IV. FLOOD HAZARD REGULATIONS

Sec. 54-321 STATUTORY AUTHORITY.

The legislature of the state has, in NMSA 1978, § 3-18-6, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.

(Code 1985, § 10-9-1)

Sec. 54-322 FINDINGS OF FACT.

- (a) The flood hazard areas of the village are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Code 1985, § 10-9-2)

Sec. 54-323 PURPOSE OF ARTICLE.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;

- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

(Code 1985, § 10-9-3)

Sec. 54-324 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or which cause excessive increases in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, streams, channels and natural protective barriers which are involved in the accommodation of floodwaters.
- (4) Control filling, grading, dredging and other development which may increase flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Code 1985, § 10-9-4)

Sec. 54-325 DEFINITIONS (FOR PURPOSES OF THE NATIONAL FLOOD INSURANCE PROGRAM).

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

Alluvial fan flooding means flooding occurring in the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows, active processes of erosion, sediment transport and deposition, and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appeal means a request for a review of the enforcement officer's interpretation of any provisions of this article, or a request for a variance.

Area of shallow flooding means a designated AO, AH or VO zone on a community's flood insurance rate map with a one-percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHB). After detailed rate making has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AO, AH, A1—30, AE, A99, AR, AR/A1—30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1—30, VE or V.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Base flood elevation means the computed elevation to which floodwater is anticipated to rise during the base flood. Base flood elevations (BFEs) are shown on flood insurance rate maps (FIRMs) and on the flood profiles.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed before the effective date of the floodplain management regulations adopted by a community.

Existing mobile home park or mobile home subdivision means a parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed, including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, is completed before the effective date of the ordinance from which this article is derived.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads.

Expansion to an existing mobile home park or mobile home subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed, including the installation of utilities, either final site grading or the pouring of concrete pads, or the construction of streets.

Flood and flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the areas within the boundaries of special flood hazard have been designated as zone A.

Flood insurance rate map (FIRM) means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study (FIS). See "Flood elevation study."

Floodplain and floodprone area mean any land area susceptible to being inundated by water from any source (see the definition of "flooding").

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodway and regulatory floodway mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include longterm storage or related manufacturing facilities.

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a habitable floor.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

Mobile home. See "Manufactured home."

New construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community, and includes any subsequent improvements to such structures.

New mobile home park or mobile home subdivision. See "New manufactured home park or subdivision."

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area. See "Area of special flood hazard."

Start of construction, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348), includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other

improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of the structure on a site, such as the pouring of slabs or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. Cost shall be determined according to the standards of subsection 22-34(b). This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety codes or specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum of 1929, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Code 1985, § 10-9-5; Ord. No. 2011-15, 10-11-11; Ord. No. 2014-09, 10-28-14)

Editor's note(s)—Ord. No. 2014-09 Editor's note(s)—, adopted Oct. 28, 2014, changed the title of § 54-325 Editor's note(s)— from "Definitions" to read as herein set out.

Cross reference(s)—Definitions generally, § 1-2 Cross reference(s)—.

Sec. 54-326 LANDS TO WHICH ARTICLE APPLIES.

This article shall apply to all areas of special flood hazard within the jurisdiction of the village.

(Code 1985, § 10-9-6)

Sec. 54-327 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Ruidoso," dated November 5, 2014, with accompanying flood insurance rate maps and flood hazard boundary-floodway maps, and any revisions thereto, are hereby adopted by reference and declared to be a part of this article.

(Code 1985, § 10-9-7; Ord. No. 2011-15, 10-11-11; Ord. No. 2014-09, 10-28-14)

Sec. 54-328 DEVELOPMENT PERMIT REQUIRED.

A floodplain development permit shall be required to ensure conformance with the provisions of this article.

(Code 1985, § 10-9-8; Ord. No. 2014-09, 10-28-14)

Sec. 54-329 COMPLIANCE WITH ARTICLE AND OTHER REGULATIONS.

No structure or land shall hereafter be located or altered or have its use changed without full compliance with the terms of this article and other applicable regulations.

(Code 1985, § 10-9-9)

Sec. 54-330 ABROGATION OF EXISTING RESTRICTIONS; CONFLICTING REGULATIONS.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1985, § 10-9-10)

Sec. 54-331 INTERPRETATION OF ARTICLE.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally constructed in favor of the council; and

- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1985, § 10-9-11)

Sec. 54-332 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur, and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the village or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 1985, § 10-9-12)

Sec. 54-333 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The planning administrator or his designee is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (the National Flood Insurance Program regulations) pertaining to floodplain management.

(Code 1985, § 10-9-13)

Sec. 54-334 DUTIES OF FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the floodplain administrator shall include but not be limited to the following:

- (1) The floodplain administrator shall maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) The floodplain administrator shall review permit applications to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) The floodplain administrator shall review, approve or deny all applications for development permits required by adoption of this article.
- (4) The floodplain administrator shall review applications for proposed development to ensure that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required (including those required by section 404 of the federal Water Pollution Control Act Amendments of 1972, 33 USC 1334).
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- (6) The floodplain administrator shall notify, in riverine situations, adjacent communities and the state coordinating agency, which is the emergency management bureau, prior to any alteration or relocation

of a watercourse, and submit evidence of such notification to the New Mexico Department of Homeland Security and Emergency Management (NMDHSEM).

- (7) The floodplain administrator shall ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with section 54-327, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of this article.
- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements or other development, including fill, shall be permitted within zones A1—30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1—30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by Section 65.12.

(Code 1985, § 10-9-14; Ord. No. 2014-09 , 10-28-14)

Sec. 54-335 ISSUANCE OF DEVELOPMENT PERMIT.

- (a) *Application.* Application for a development permit shall be presented to the enforcement officer on forms furnished by him, and may include but shall not be limited to plans in duplicate drawn to scale showing the locations, dimensions and elevation of proposed landscape alterations and existing and proposed structures, and their location in relation to areas of special flood hazard. Additionally, the following information is required:
 - (1) Elevation, in relation to mean sea level, of the lowest floor, including basement, of all new and substantially improved structures.
 - (2) Elevation, in relation to mean sea level, to which any nonresidential structure shall be floodproofed.
 - (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 54-337.
 - (4) A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - (5) Maintain a record of all such information in accordance with, subsection 54-334(1).
- (b) *Criteria for approval.* Approval or denial of a development permit by the enforcement officer shall be based on all of the provisions of this article and the following relevant factors:
 - (1) The danger to life and property due to flooding or erosion damage.
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (3) The danger that materials may be swept onto other lands to the injury of others.

- (4) The compatibility of the proposed use with existing and anticipated development.
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities such as sewer, gas, electric and water systems.
- (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (8) The necessity to the facility of a waterfront location, where applicable.
- (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (10) The relationship of the proposed use to the comprehensive plan for that area.

(Code 1985, § 10-9-15; Ord. No. 2014-09 , 10-28-14)

Sec. 54-336 VARIANCES.

- (a) The enforcement officer shall hear and render judgment on requests for variances from the requirements of this article.
- (b) The planning commission shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the enforcement officer in the enforcement or administration of this article.
- (c) Any person aggrieved by the decision of the planning commission may appeal such decisions to the council as provided in section 54-62, and then to the courts of competent jurisdiction.
- (d) The floodplain administrator shall maintain a record of all actions involving an appeal, and shall report variances to the Federal Emergency Management Agency upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places without regard to the procedures set forth in the remainder of this article.
- (f) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 54-335(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted in this section and the intent of this article, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Prerequisites for granting variances are as follows:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (2) Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (j) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (1) The criteria outlined in this article are met.
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (k) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(Code 1985, § 10-9-16)

Sec. 54-337 GENERAL STANDARDS.

In all areas of special flood hazard, the following provisions are required:

- (1) All new construction and substantial improvements shall be designed, or modified, and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters; and
- (6) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

- (7) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(Code 1985, § 10-9-17; Ord. No. 2014-09 , 10-28-14)

Sec. 54-338 SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in section 54-327, 54-334(8) or 54-337, the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the enforcement officer that the standard of this subsection, as proposed in section 54-335, is satisfied.
- (2) *Nonresidential construction.* New construction or substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood level, or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that such design, specifications and plans are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.
- (3) *Enclosures.* New construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) a. Manufactured homes that are placed or substantially improved within zones A1—30, AH and AE on the community's FIRM on sites:
 1. Outside of a manufactured home park or subdivision;
 2. In a new manufactured home park or subdivision;
 3. In an expansion to an existing manufactured home park or subdivision; or
 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

Require that all manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

- (5) *Recreational vehicles.* Recreational vehicles placed on sites within zones A1—30, AH and AE on the community's FIRM shall either:
- Be on the site for fewer than 180 consecutive days;
 - Be fully licensed and ready for highway use; or
 - Meet the permit requirements of this article and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

- (6) *Evacuation plan.* A plan for evacuating residents of all manufactured home parks or subdivisions located within floodprone areas shall be developed and filed with and approved by the enforcement officer.

(Code 1985, § 10-9-18; Ord. No. 2014-09 , 10-28-14)

Sec. 54-339 STANDARDS FOR AREAS OF SHALLOW FLOODING.

Located within the areas of special flood hazard established in section 54-327 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions shall apply:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM, or at least two feet if no depth number is specified.
- (2) All new construction and substantial improvements of nonresidential structures shall:
 - Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM, or at least two feet if no depth number is specified; or
 - Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the enforcement officer that the standards of this section, as proposed in section 54-335(b), are satisfied.

- (4) Within zones AH and AO, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(Code 1985, § 10-9-19; Ord. No. 2014-09 , 10-28-14)

Sec. 54-340 STANDARDS FOR SUBDIVISION PROPOSALS.

- (a) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with sections 54-321 through 54-323.
- (b) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet the development permit requirements of sections 54-335 and 54-337, and other provisions of this article.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided.
- (d) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed so as to minimize or eliminate flood damage.

(Code 1985, § 10-9-20)

Sec. 54-341 COMPUTER PROGRAMS FOR IDENTIFICATION AND MAPPING OF SPECIAL FLOOD HAZARD AREAS.

Any computer program used to perform hydrologic or hydraulic analyses in support of a flood insurance map revision must meet all of the following criteria:

- (1) It must have been reviewed and accepted by a governmental agency responsible for the implementation of programs for flood control and/or the regulation of floodplain lands. For computer programs adopted by non-federal agencies, certification by a responsible agency official must be provided which states that the program has been reviewed, tested and accepted by that agency for purposes of design of flood control structures or floodplain land use regulation.
- (2) It must be well documented, including source codes and user's manuals.
- (3) It must be available to the Federal Emergency Management Agency and all present and future parties impacted by flood insurance mapping developed or amended through the use of the program. For programs not generally available from a federal agency, the source code and user's manuals must be sent to the Federal Emergency Management Agency free of charge, with fully documented permission from the owner that the Federal Emergency Management Agency may release the code and user's manuals to such impacted parties.

(Code 1985, § 10-9-21)

Sec. 54-342 FLOODWAYS.

Located within areas of special flood hazard established in section 54-327 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- a. Encroachments are prohibited, including fill, new construction, substantial improvements and other development, unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b. If the requirements of this article are satisfied, all new construction and substantial improvements shall comply within all applicable flood hazard reduction provisions of section 54-337

(Ord. No. 2014-09 , 10-28-14)

Sec. 54-343 SEVERABILITY.

If any section, clause, sentence, or phrase of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this article.

(Ord. No. 2014-09 , 10-28-14)

Sec. 54-344 PENALTIES FOR NONCOMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Village of Ruidoso from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2014-09 , 10-28-14)

Sec. 54-345 SECS. 54-345—54-370. RESERVED.

ARTICLE V. AIRPORT HAZARD REGULATIONS¹¹

Sec. 54-371 SCOPE OF ARTICLE; STATUTORY AUTHORITY.

¹¹Cross reference(s)—Aviation, ch. 18 Cross reference(s)—.

This article is applicable to the area enclosed within a 10,000-foot radius from the center of each end of the primary surface of each runway of the airport and by connecting the adjacent arcs by lines tangent to those arcs, and all the area within the runway 6/24 approach zone for a distance of 50,000 feet from the center of each end of the primary surface for each end of runway 6/24, all as shown on the airport hazard zoning map attached to the ordinance from which this article is derived, at the Sierra Blanca Regional Airport. This article divides such area into zones and, within such zones, specifies the land uses permitted, regulates and restricts the height to which structures and trees may be erected or allowed to grow, and imposes other restrictions and requirements necessary to effectuate the approach plan for the airport, the airport approach plan having been heretofore formulated and adopted by the board of county commissioners. The authority for the airport approach plan and for this article is NMSA 1978, §§ 3-39-16—3-39-26, and Federal Aviation Administration Regulations, Part 77, Objects Affecting Navigable Airspace.

(Code 1985, § 11-8-1)

Sec. 54-372 DEFINITIONS.

- (a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airport means the Sierra Blanca Regional Airport, Ruidoso, New Mexico.

Airport elevation means the established elevation of the highest point on the usable landing area, which is 6,810.5 feet MSL.

Airport reference point means the point established as the approximate geographic center of the airport landing area, and is established at a location described as follows: longitude 105°31'31" west, latitude 33°27'42" north.

Height. For the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level unless otherwise specified.

Landing area means the area of the airport used for the landing or takeoff of the aircraft.

Nonconforming use means any structure, tree or use of land which is lawfully in existence at the time this article becomes effective and does not then meet the requirements of this article.

Primary surface means a surface longitudinally centered on a runway and which extends 200 feet beyond each end of that runway, provided the surface is hard; otherwise, the primary surface ends at each end of that runway. The primary surface is established as 200 feet beyond each end of the runways and has a width of 1,000 feet for instrument runways and 250 feet for visual runways.

Runway means a defined area on the airport prepared for landing and takeoff of aircraft along its length.

- (b) Other definitions are as set out in NMSA 1978, § 3-29-17, and in Federal Aviation Administration Regulations, Part 77, Objects Affecting Navigable Airspace.

(Code 1985, § 11-8-2)

Cross reference(s)—Definitions generally, § 1-2Cross reference(s)—.

Sec. 54-373 ZONES.

In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land lying within the approach zones, transition zones, horizontal zone and conical zone. Such areas and zones are shown on the Sierra Blanca Regional Airport Hazard Zoning Map, consisting of one sheet, and bearing the date of adoption of the ordinance from which this article is derived, a copy of which is attached to such ordinance and made a part of this article by reference. The various zones are hereby established and defined as follows:

- (1) *Approach zones.* An approach zone is established at each end of all runways on the airport for landings and takeoffs. The approach zone shall be longitudinally centered on the extended runway centerline and extends outward and upward from each end of the primary surface and has a width of 1,000 feet for instrument runway 6/24 and 250 feet for visual runway 12/30 at a distance of 200 feet beyond each end of each runway, widening thereafter uniformly for each runway as follows:
 - a. For runway 6/24, to a width of 4,000 feet at a slope of 50 feet horizontally to one foot vertically for the first 10,000 feet, and to a width of 16,000 feet at a slope of 40 feet horizontally to one foot vertically for the next 40,000 feet.
 - b. For runway 12/30, to a width of 450 feet at a slope of 20 feet horizontally to one foot vertically at a distance of 1,000 feet from the end of the primary surface.
- (2) *Transition zones.* Transition zones are hereby established adjacent to each runway and approach zone as indicated on the zoning map. Transition zones extend outward and upward at right angles to the runway centerline at a slope of seven feet horizontally to one foot vertically from the sides of the primary surface and from the sides of the approach surfaces to the point where they intersect the surface of the horizontal zones or the conical zone.
- (3) *Horizontal zones.* A horizontal zone is hereby established as the area the perimeter of which is constructed by swinging arcs of a radius of 10,000 feet from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The horizontal zone does not include the approach zones, conical zones and transition zones.
- (4) *Conical zones.* A conical zone is hereby established as the area that commences at the periphery of the horizontal zones and extends outward therefrom at a slope of 20 feet horizontally to one foot vertically for a horizontal distance of 4,000 feet. The conical zone does not include the approach zones and transition zones.

(Code 1985, § 11-8-3)

Sec. 54-374 HEIGHT LIMITATIONS.

Except as otherwise provided in this article, no structure or tree shall be erected, altered, allowed to grow or maintained in any zone created by this article to a height in excess of the height limit established in this article for each zone. Such height limitations are hereby established for each of the zones in question as follows:

- (1) *Approach zones.*
 - a. For runway 6/24: Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline, thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
 - b. For runway 12/30: Slopes 20 feet outward for each foot upward beginning at the end of and

at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

- (2) *Transitional zones.* Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation, which is 6,810.5 feet above mean sea level. In addition, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.
- (3) *Horizontal zones.* One hundred fifty feet above the airport elevation or a height of 6,960.5 feet above mean sea level.
- (4) *Conical zone.* One foot in height for each 20 feet of horizontal distance beginning at the periphery of the horizontal zones, extending to a height of 350 feet above the airport elevation.
- (5) *Overlapping zones.* Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail. Nothing in this article shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the surface of the land within a three-mile radius of the airport reference point.

(Code 1985, § 11-8-4)

Sec. 54-375 USE RESTRICTIONS.

Notwithstanding any other provisions of this article, no use may be made of land within any zone established by this article in such manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and other lights, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off, or maneuvering of aircraft.

(Code 1985, § 11-8-5)

Sec. 54-376 NONCONFORMING USES.

- (a) *Regulations not retroactive.* This article shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to this article as of the effective date of the ordinance from which this article is derived, or otherwise interfere with the continuance of any nonconforming use. Nothing contained in this article shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance from which this article is derived and is diligently prosecuted.
- (b) *Marking and lighting.* Notwithstanding subsection (a) of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the village council to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed,

operated and maintained at the expense of the village and shall conform to the current Federal Aviation Administration Advisory Circular 70/7460-1.

- (c) *Incompatible uses.* No use shall be allowed within any zone established by this article which is in conflict with Federal Aviation Administration Order 5200.5 relating to safe flight operations.

(Code 1985, § 11-8-6)

Sec. 54-377 PERMITS AND VARIANCES.

- (a) *Permit for new uses and structures.* Except as specifically provided in subsections (1), (2) and (3) of this subsection, no material change shall be made in the use of the land and no structure or tree shall be erected, altered, planted or otherwise established in any zone created by this article unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to this article.
- (1) In the area lying within the limits of the horizontal zone or the conical zone but not within the limits of an approach zone or transition zone, no permit shall be required for any tree or structure less than 50 feet in vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone.
 - (2) In the area lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 50 feet in vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such instrument or non-instrument approach zone.
 - (3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than 75 feet in vertical height above the ground, except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the exceptions in subsections (1), (2) and (3) of this section shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this article, except as set forth in section 54-374.

- (b) *Existing uses.* No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of the ordinance from which this article is derived or the effective date of any amendments to this article, or than it is when the application for a permit is made.
- (c) *Abandoned or destroyed nonconforming uses.* Whenever the village council determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from this article.
- (d) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with this article, may apply to the planning commission for a variance from this article. Such variances may be allowed where it is duly found that a literal application or enforcement of this article would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this article.

- (e) *Hazard marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or trees in question to permit the village, at its own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

(Code 1985, § 11-8-7)

Sec. 54-378 ADMINISTRATION.

It shall be the duty of the planning commission to administer and enforce this article. Applications for permits and variances shall be made to the planning commission upon forms furnished by it. The airport manager shall review all applications for permits and variances and shall report his findings and recommendations to the planning commission regarding compliance with this article and the airport master plan. Applications required by this article to be submitted to the planning commission and reviewed by the airport manager shall be promptly considered and granted or denied by the planning commission.

(Code 1985, § 11-8-8)

Sec. 54-379 APPEALS.

Appeals shall be to the village council according to the provisions of NMSA 1978, § 3-39-22.

(Code 1985, § 11-8-9)

Sec. 54-380 JUDICIAL REVIEW.

Judicial review may be had as provided in NMSA 1978, § 3-39-23.

(Code 1985, § 11-8-10)

Sec. 54-381 ENFORCEMENT AND REMEDIES.

Violations, penalties and additional relief are as provided in NMSA 1978, § 3-39-24.

(Code 1985, § 11-8-11)

Sec. 54-382 CONFLICTING REGULATIONS.

Where there exists a conflict between any of the regulations or limitations prescribed in this article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of the land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

(Code 1985, § 11-8-12)

Sec. 54-383 —54-399. RESERVED.

ARTICLE VI. WILDFIRE HAZARD OVERLAY DISTRICT

Sec. 54-400 INTENT AND PURPOSE OF DISTRICT.

- (a) This wildfire hazard overlay district (the "district") is intended to promote the public health, safety and general welfare of the citizens of the village, to minimize the risk of loss of life and property in the district, to encourage and regulate prudent land use in the district so as not to increase the danger to the public health, safety and property, to reduce the demands for public expenditures for relief and protection of structures and facilities permitted in the district, to regulate buildings and structures so as to minimize the hazard to public health, safety and welfare and to public and private property, and to facilitate an added value concept to enhance aesthetics and property values.
- (b) Specific purposes are:
 - (1) To develop and maintain a map or otherwise to identify areas within the village's jurisdiction that allow for preliminary identification of wildfire hazard areas.
 - (2) To identify the process for assessing the wildfire hazard concurrent with the land planning process.
 - (3) To identify specific types of development to be subject to wildfire mitigation measures and the provisions of the Urban/Wildland Interface Code ("U/WIC"), as amended and adopted by the village.
 - (4) To reference the standards with which development proposed in wildfire hazard areas must comply.
 - (5) To set forth the procedures for addressing wildfire risk during the land development process.

(Ord. No. 2002-05, 6-25-02)

Sec. 54-401 APPLICABILITY.

- (a) The regulations contained in this article shall apply to all land areas identified as being within the district.
- (b) Any area assigned a hazard rating of 60 for constructed sites or 45 for unimproved land or higher by the U/WIC, or such other rating as the U/WIC may provide from time to time, shall be subject to the provisions of this article.
- (c) Land use activities subject to this article are:
 - (1) All building permits;
 - (2) Site plans;
 - (3) Subdivisions;
 - (4) All special use permits, including conditional uses and variances.

- (d) The provisions of this article shall apply in addition to the applicable requirements of the underlying zoning district. Where any such provisions are inconsistent, the provisions of this article shall govern.

(Ord. No. 2002-05, 6-25-02)

Sec. 54-402 DUTIES OF DIRECTOR.

- (a) The planning administrator and the director of forestry of the village shall have concurrent responsibility for administration of this article.
- (b) Use of the title "director" refers to the planning administrator or the director of forestry or their duly authorized representative.

(Ord. No. 2002-05, 6-25-02; Ord. No. 2004-03, 5-11-04)

Sec. 54-403 IDENTIFICATION OF DISTRICT.

- (a) The district shall be deemed an overlay on property in any zoning district that comes within the provisions of this article.
- (b) The village may create a map to identify properties within the district, or it may identify said properties on the basis of the hazard rating system of the U/WIC, or by such other method as will serve the purposes listed above and sufficiently identify the property. Any property identified as being within the district shall lawfully be designated as such, regardless of whether or not it is identified on any map.
- (c) Land proposed for development shall be subject to on-site inspection by the director for the purpose of determining a wildfire hazard rating.
- (d) Any person contesting the location of property within the district or the severity of conditions at a specific location within the district may challenge the determination of the director by submission of forestry, topographic and other data to support such contest. The director shall not allow deviations from the district designation or from the mitigation requirements of this article unless the data submitted clearly and conclusively establishes that the designated location is incorrect or that the hazard conditions as determined by the director are in error. The director shall be required to enter findings that any deviations approved as a result of this subsection do not present a significant hazard to public health, safety or welfare, or to property at the specific contested location. Any adverse finding under this subsection shall be subject to appeal as otherwise provided in this Code.

(Ord. No. 2002-05, 6-25-02; Ord. No. 2004-03, 5-11-04)

Sec. 54-404 DEVELOPMENT STANDARDS.

- (a) *General requirements.* Development determined to be subject to the provisions of the district shall be required to mitigate identified hazards through compliance with these regulations. Additional measures aimed at reducing the risk of wildfire may be imposed at the discretion of the director, subject to contest as specified in section 54-402 herein.
- (b) *Specific requirements.*

(1) *Fuel modification.*

- a. Minimum fuel modification measures required are set forth in the Fuels Management Standards, section 42-80. Identification of fuel modification measures in addition to the minimum requirements set forth in section 42-80 may be required where slopes exceed 40 percent or [where] other extreme conditions promoting severe fire behavior exist. Additional fuel modification shall be determined and approved by the director of forestry and the fire chief. Identification of fuel type, volume and loading, in conjunction with an assessment of slope and aspect, to determine the ability for a wildfire to spread.
- b. Reduction of fuel loading and modification of fuel types to reduce the risk to structures or adjacent vegetation, including the creation of fuel breaks.
- c. Creation of defensible space to protect structures from approaching wildfire and reduce the potential for turning a structure fire into a wildfire.

(2) *Defensible space standards.*

- a. The standards and criteria governing the design of defensible space and associated fuel break thinning shall be those specified in the U/WIC and section 42-80 as adopted by the village.
- b. Roadway standards shall be those specified in the U/WIC as adopted by the village.
- c. A site development plan or building permit meeting the criteria set forth in section 54-404(b)(3)b. shall be deemed to be in compliance with the defensible space requirement when a written certificate of compliance is issued by the director of forestry. The cost of inspection, reinspection and certification shall be borne by the applicant according to the fee schedule as set forth in appendix A to this Code.
- d. A denial of a certificate of compliance may be appealed to the planning commission, the governing body and district court as provided in this Code.

(3) *Building permits.*

- a. All buildings and structures allowed to be located in a wildfire hazard area shall be required to comply with the design standards specified in the U/WIC.
- b. No building permit shall be issued for new construction, the replacement of existing structures, or for additional habitable space of 400 square feet or more until a lot assessment has been completed.
- c. No certificate of occupancy for any construction meeting the criteria contained in subsection b. above shall be issued until a certificate of compliance has been issued.

(Ord. No. 2002-05, 6-25-02; Ord. No. 2004-03, 5-11-04; Ord. No. 2007-04, 4-24-07; Ord. No. 2007-09, 9-11-07; Ord. No. 2012-07, 6-26-12)

Sec. 54-405 APPLICATION PROCEDURE.

- (a) Prior to the processing of any application for a land use activity within the district, a wildfire hazard rating shall be obtained by completion of the Fire Hazard Ratings Form (section 42-81). Where required as per section 54-404(b)(1), additional fire hazard reduction measures will be determined by the director of forestry and/or the fire chief.

- (b) If the wildfire hazard rating is 60 for constructed sites or 45 for unimproved land or greater, or otherwise as specified by the U/WIC, a report may be requested to be prepared by a qualified person approved by the director. The report shall, at a minimum, include the following:
- (1) A description of the existing site characteristics including geologic, vegetative, topographical, and environmental conditions.
 - (2) A determination as to whether the site characteristics constitute a hazard.
 - (3) An assessment of the severity of the hazard and its implications relative to future development.
 - (4) An analysis of the intensity and character of existing and proposed development and its effect on the hazard.
 - (5) An analysis of the relationship between the development and the hazard, both inside and outside the impacted area.
 - (6) Recommendations pertaining to the form, type and extent of the required mitigation measures as outlined in the U/WIC and in this article.

(Ord. No. 2002-05, 6-25-02; Ord. No. 2004-03, 5-11-04)

Sec. 54-406 SEC. 54-406. REVIEW PROCEDURES.

- (a) The review procedure for the provisions of this article shall coincide with the procedures specified in this Code for the type of development or use proposed and the requirements of the underlying zoning district. In the event of any conflict, the procedures of this article shall control.
- (b) All decisions made by either the director or the planning commission pursuant to the provisions of this article shall be appealable as provided in this Code. The appellate body may approve or disapprove the decision, and may apply such reasonable conditions to its approval as will further the purposes of this article including, but not limited to:
- (1) Alteration of the physical characteristics of the land;
 - (2) Alteration to the vegetative features of the land; or
 - (3) Construction standards required of structures proposed.

(Ord. No. 2002-05, 6-25-02; Ord. No. 2004-03, 5-11-04)

Sec. 54-407 —54-698. RESERVED.

ARTICLE VII. WIRELESS TELECOMMUNICATIONS FACILITIES

Sec. 54-699 SHORT TITLE.

This article shall be known and cited as the "Wireless Telecommunications Facilities Siting Ordinance" of the Village of Ruidoso, New Mexico, (hereinafter referred to as the "ordinance"). This article shall supersede all other aspects of this Code, including special use permits and variances, as they may pertain to the construction, erection and/or expansion of wireless telecommunications towers and facilities. This ordinance shall not include amateur radio operators' equipment as licensed by the FCC.

(Ord. No. 2012-05, 6-12-12)

Sec. 54-700 SEC. 54-700. AUTHORITY.

This article is adopted pursuant to the enabling provisions of the Constitution of the State of New Mexico and NMSA 1978.

(Ord. No. 2012-05, 6-12-12)

Sec. 54-701 SEC. 54-701. PURPOSE.

The purpose of this article is to provide a process and a set of standards for the placement, modification, and construction of wireless telecommunications towers and facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the village.

(Ord. No. 2012-05, 6-12-12)

Sec. 54-702 DEFINITIONS.

The terms used in this article shall have the following meanings:

Antenna means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Antenna support structure means any building or structure other than a tower which can be used for location of telecommunications facilities.

Antenna height means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Applicant means any person that applies for a telecommunications facilities permit.

Application means the process by which the owner of a parcel of land and the owner of a tower within the village submits a request to develop, construct, build, modify, or erect a telecommunications facility upon such parcel of land; application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the village concerning such a request.

Camouflage means to disguise the function of a wireless communications site. Examples include building facilities to resemble clock towers, trees, steeples, flagpoles, etc. Sometimes known as "stealth" towers or facilities that are designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower, such as light poles, power poles, and trees.

Co-location means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Designated scenic resource means that specific location, view, or corridor, as identified as a scenic resource in the village that consists of one or both of the following:

- (a) A three-dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skyline or mountain range, resulting in a panoramic view corridor; or
- (b) Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

Engineer means any engineer licensed as a professional engineer by the State of New Mexico.

Expansion means the addition of antennas, towers or other devices to an existing structure.

Height means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished point of the building or structure. The highest point shall include farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

Historic or archaeological resources means resources that are:

- (a) Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
- (b) Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
- (c) Individually listed on a local inventory of historic places in Ruidoso; or
- (d) Areas identified by the village as having significant value as a historic or archaeological resource and any areas identified in the village's comprehensive plan.

Historic district means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development or identified in the village's comprehensive plan. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

Historic landmark means any improvement, building or structure of particular historic or architectural significance to the village relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history.

Line of sight means the direct view of the object from the designated scenic resource.

Owner means any person with fee title or long-term (exceeding ten years) leasehold to any parcel of land or existing tower within the village who desires to develop, or construct, build, modify, or erect a tower upon such parcel of land.

Parabolic antenna (also known as satellite dish antenna) means an antenna that is bowl-shaped, designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

Person means any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

Principal use means the use other than one that is wholly incidental or accessory to another use on the same premises.

Public recreational facility means a regionally or locally significant facility, as defined and identified either by state statute or in the village's adopted comprehensive plan designed to serve the recreational needs of village property owners.

Stealth means any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.

Targeted market coverage area means the area which is targeted to be served by this proposed telecommunications facility.

Telecommunications facilities means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

- (a) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or
- (b) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

Tower means a self-supporting lattice, guyed, or monopole structure constructed from grade that supports telecommunications facilities, but shall not include amateur radio operators' equipment as licensed by the FCC.

Unreasonable adverse impact means that the proposed project would produce an end result which is:

- (a) Excessively out of character with the designated/described historic, architectural, or scenic resources affected, including existing buildings, structures and features within the designated scenic resource; and
- (b) Would significantly diminish the visual aesthetic value of the designated/described historic, architectural, or scenic resource.

Viewpoint means that location which is identified whether in the adopted comprehensive plan or by a federal or state agency, or which serves as the basis for the location and determination of a particular designated scenic resource.

Wireless telecommunications facility means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, common carrier wireless exchange access services, and personal communications service (PCS) or pager services; cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications. A telecommunications facility shall not include the following:

- (a) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or
- (b) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

- (c) The definition of wireless telecommunications facility as used herein shall not include amateur radio operators' equipment as licensed by the FCC.

(Ord. No. 2012-05, 6-12-12)

Sec. 54-703 APPLICATION PROCESS.

Wireless telecommunications facilities are a conditional use in all zones. Any person seeking to construct, erect, build or replace a tower or telecommunications facility will be required to apply for approval from the village under this ordinance and shall submit an application along with the following documentation and information meeting the village's standards.

- (a) *Application.* The village will provide, upon request, application forms for approval pertaining to the construction, erection or increase in height of wireless telecommunications towers and facilities, see section 22-31b.(19) of this Code. All applications for tower approval must be in writing, must be on the form provided by the village and must include the information required in section 54-67, except as modified or augmented by the following:
 - (1) Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and of the applicant.
 - (2) Identification of districts, sites, buildings, structures or objects, significant in history, architecture, archaeology, engineering or culture, as well as places, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); CFR 60 and 800).
 - (3) A detailed camouflage plan for both the site and the structure.
 - (4) A site plan drawn to a scale of one-inch equals 100 feet prepared and certified by a design professional registered in the State of New Mexico indicating:
 - a. Location, type, and height of the proposed facility.
 - b. Antenna capacity.
 - c. On-site and abutting off-site land uses.
 - d. Means of access.
 - e. Setbacks from property lines.
 - f. All applicable technical and structural codes.
 - (5) A scenic assessment, consisting of the following:
 - a. Elevation drawings of the proposed facility and any other proposed structures, showing height above ground level.
 - b. A landscaping plan indicating the proposed placement of the facility on the site including:
 - 1. A detailed camouflage plan for both the site and the structure;
 - 2. Location of existing structures, trees, and other significant site features;
 - 3. The type and location of plants proposed to screen the facility;
 - 4. The method of fencing, the color of the structure and any proposed lighting method.

- c. Photo simulations of the proposed facility must be taken. Each photo must be labeled with the line of sight, elevation, and the date the photograph was taken. The photos must show the color of the facility, the method of screening and the camouflage plan.
- (6) A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
- (7) An application for approval shall include payment of the application fee for conditional use permit. The application shall not be considered complete until this fee is paid. This fee is non-refundable.
- (b) *Standards.* No application shall be submitted for consideration or approved by the Ruidoso Planning Commission unless the following standards are met:
 - (1) Reserved.
 - (2) *Siting on village property.* If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on village property, the applicant must show the following:
 - a. The proposed location complies with applicable village policies and ordinances.
 - b. The proposed facility will not interfere with the intended purpose of the property.
 - c. The applicant has adequate liability insurance and a lease agreement with the village that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interest in the property.
 - (3) *Design for co-location.* A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three additional wireless telecommunications facilities or providers. However, the village council may waive or modify this standard in the event co-location is not feasible. The applicant must show to the planning commission's satisfaction why co-location on an existing facility is not feasible.
 - (4) *Height.* Towers are exempt from the maximum height restrictions of the zoning districts where located. Towers shall be permitted to a height of 150 feet. Tower height shall be measured from grade.
 - (5) *Setbacks.* A new or expanded wireless telecommunications facility must comply with the setback requirements for the zoning district in which it is located, or be set back 105 percent of its height from all adjacent residential properties. The setback may be satisfied by including areas within the residential property that are encumbered by an easement restricting placement of any habitable structure. The following exemptions apply:
 - a. This setback may be reduced by the village planning commission upon a showing by the applicant, stamped by an engineer, that the facility is designed to collapse in a manner that will not harm other property.
 - b. An antenna is exempt from the setback requirement if it extends no more than five feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.
- (6) *Landscaping.* A new wireless telecommunications facility and related equipment must be

screened with plants from view by abutting properties. All telecommunications facilities shall have one or more rows of evergreen trees, shrubs, earth-tone stucco walls, or berms capable of screening the base of the tower and all accessory equipment from view from adjacent properties. A break of not more than 15 feet in the visual barrier may be allowed for maintenance access. Existing plants and natural landforms on the site shall be preserved to the maximum extent practicable.

- (7) *Fencing.* A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structures by trespassers.
- (8) *Lighting.* Lighting of the facility is not permitted except as required by state or federal laws and/or regulations and/or to the extent deemed necessary by the planning commission for safety purposes.
- (9) *Color and materials.* A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
- (10) *Visual impact.* The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the village, as identified either in the adopted comprehensive plan, or by a state or federal agency.
 - a. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the planning commission shall consider the following factors:
 - 1. The extent to which the proposed wireless telecommunications facility is visible above the tree line from the viewpoint(s) of the designated scenic resource;
 - 2. The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
 - 3. The extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);
 - 4. The amount of vegetative screening;
 - 5. The distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and
 - 6. The presence of reasonable alternatives that allow the facility to function consistently with its purpose.
- (11) *Historical and archaeological properties.* The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site, or structure, which is currently listed on, or eligible for listing on the National Register of Historic Places.
- (12) *Camouflage.* All telecommunications facilities must be camouflaged to the greatest extent reasonably possible and in a manner approved by the planning commission.
- (13) *Advertising.* No wireless communications facility shall display any sign or advertising.

(Ord. No. 2012-05, 6-12-12; Ord. No. 2019-02, 3-12-19)

Sec. 54-704 APPROVAL OR DENIAL PROCESS.

- (a) *Public hearing.* Upon receipt of a complete application(s), the planning administrator shall schedule a public hearing to be held before the planning commission. The procedures for review and approval of a conditional use as set forth in section 54-68 shall be followed.
- (b) *Hearing notices.* Notice of any public hearing shall follow the requirements of section 54-40.
- (c) *Approval of application.* Approval of the application shall follow the requirements of section 54-68.
- (d) *Appeal of planning commission decision.* Any person may appeal the decision of the planning commission as provided in section 54-62.

(Ord. No. 2012-05, 6-12-12)

Sec. 54-705 RESERVED.

Editor's note(s)—Ord. No. 2019-02 Editor's note(s)—, adopted March 12, 2019, repealed § 54-705 Editor's note(s)—, which pertained to building permits and derived from Ord. No. 2012-05, adopted June 12, 2012.

Sec. 54-706 ADMINISTRATION AND ENFORCEMENT.

The planning administrator shall enforce this chapter. If the planning administrator finds that any provision of this ordinance has been violated, the planning administrator shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The planning administrator shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance. Any violation of the terms of this ordinance or of the permit and application shall be subject to the maximum penalties and fines as provided in this Code. Each day of any such violation or failure to perform pursuant to this Code shall constitute a separate offense and the village may file multiple citations for each day that a violation continues.

(Ord. No. 2012-05, 6-12-12)

Village of Ruidoso
Chapter 54 Update
Village Council Workshop Draft
April 22, 2024

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XXXXXXX New Text

XXXXXXX Revisions

XXXXXXX No change, new section number

Chapter 54 – Land Use

ARTICLE II. LAND DEVELOPMENT CODE

DIVISION 1: GENERAL PROVISIONS

Sec. 54-31 STATUTORY AUTHORITY; TERRITORIAL JURISDICTION

This article is created and adopted pursuant to the authority set forth in NMSA 1978, §§ 3-21-1—3-21-11, and shall be applicable to all property within the jurisdiction of the village.

(Code 1985, § 10-1-3)

Sec. 54-32 PURPOSE

The purpose of this article is to encourage the most appropriate use of land and to promote the health, safety and general welfare of the community. The regulations within this article are deemed necessary to:

- (a) Implement the Village of Ruidoso Comprehensive Plan vision and long-range development goals.
- (b) Prevent congestion in the streets and other public rights-of-way;
- (c) Secure safety from fire, panic and other dangers;
- (d) Ensure adequate light and air for all properties;
- (e) Prevent the overcrowding of land and undue concentration of population;
- (f) Facilitate adequate provisions for transportation, water, sewer, schools, parks and other public facilities and reduce the effect of natural hazards;
- (g) Control and abate the unlawful use of structures, buildings or land;
- (h) Protect the public health and general welfare; and
- (i) Encourage the conservation of energy in the use of structures, buildings and land in the village.

Regulations within this article are established to provide for the administration of this article, to provide for amendments, to prescribe penalties for violation of such regulations, and to define powers and duties of the village staff, the planning commission and the council in relation to this article.

(Code 1985, § 10-1-2)

Sec. 54-33 APPLICABILITY

The provisions of this Land Development Code apply to all public and private uses and developments within the jurisdiction of the village, except as provided by state or federal law or as otherwise expressly stated in this Land Development Code.

Sec. 54-34 RELATIONSHIP OF ARTICLE TO ADOPTED PLANS

The administration, enforcement and amendments to this article shall be accomplished in accordance with the recommendations contained in the **Village of Ruidoso Comprehensive Plan**, as developed and amended from time to time by the planning commission and the council.

(Code 1985, § 10-1-4)

Sec. 54-35 AMENDMENT TO THE ZONING ORDINANCE

MOVED TO PROCEDURES –LAND DEVELOPMENT CODE TEXT AMENDMENT

Sec. 54-36 OFFICIAL ZONING DISTRICT MAP

(a) *Official Zoning District Map.* For the purpose of this article, the village shall be divided into zoning districts, and these shall be shown on a map entitled the "Official Zoning District Map."

(b) Designation of official zoning districts. The following shall be the official zoning districts:

(1) General districts:

- R-1 Single-Family Residential District
- R-2 Two-Family Residential District
- R-3 Multiple-Family Residential District
- R-4 High-Density Residential District
- AR-1 Agricultural/Residential District
- M-1 Low-Density Mobile Home District
- M-2 Medium-Density Mobile Home District
- C-1 Neighborhood Commercial District
- C-2 Community Commercial District
- C-3 Midtown Commercial District
- C-4 Heavy Commercial District
- I-1 Industrial District

(2) Special districts:

PUD Planned Unit Development District

- (c) *Interpretation of district boundaries.* Where uncertainty exists concerning boundaries of any district shown on the official zoning district map, the following rules shall apply:
- (3) Boundaries shall be construed as the centerline of existing, future or vacated streets, highways, railroads, alleys, drainage or irrigation canals or other public rights-of-way.
 - (4) Where property has been subdivided into blocks and lots, the boundaries shall be construed to be the lot line.
 - (5) Where property is not otherwise designated, divided or subdivided, the boundary line shall be determined by the scaled distance shown on the official zoning district map.
 - (6) No zone boundary line shall hereafter be established to divide one lot into two or more zones unless the size of the lot in question is such that division is determined to be essential by the planning commission and the council.

(Code 1985, § 10-1-7)

Sec. 54-37 INTERPRETATION OF ARTICLE; CONFLICTING PROVISIONS

- (a) Minimum requirements. The provisions of this article shall be considered the minimum requirements to meet the purpose and intent expressed in section 54-32.
- (b) Conflicts with local ordinances. Where the provisions of any local ordinance or covenant impose greater restrictions than those of this article, the more restrictive provisions shall prevail.
- (c) Conflicts with federal and state law. Any provision of U.S. law or state law which imposes a greater duty, standard or requirement than those contained in this article shall supersede the provisions of this article.
- (d) Interpretation of meaning. The planning administrator or his designee shall interpret the meaning of the provisions of this article. Disagreement with an interpretation may be appealed to the planning commission and then to the council.
- (e) Conflicting provisions within article. When two or more provisions of this article are in conflict, the most restrictive provision shall apply.

(Code 1985, § 10-1-6)

Sec. 54-38 SEVERABILITY

If any portion of this Land Development Code is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the Land Development Code and does not affect or diminish the validity of the remainder of the Land Development Code.

DIVISION 2: ADMINISTRATION

Sec. 54-39 VILLAGE COUNCIL

In addition to the powers identified elsewhere in the Village code, the Village Council has the powers and duties that are expressly identified in this Land Development Code, including:

- (a) Approving members of the planning and zoning commission as provided by Village code;
- (b) Serving as the Board of Appeals;
- (c) Taking final action on Land Development Code text amendments, zoning map amendments, major subdivisions, PUD development plans, annexation and vacation requests;
- (d) Taking such other actions not expressly delegated to the planning and zoning commission or others under this Land Development Code, as the Village Council may deem desirable and necessary to implement the provisions of the comprehensive plan and this Land Development Code.

Sec. 54-40 BOARD OF APPEALS

- (a) *Designation of board of appeals.* The village council shall serve as the board of appeals.
- (b) *Notice of appeal.* Any aggrieved person or any officer, department, board or bureau of the village affected by a decision of the planning commission may appeal to the council by filing a notice of appeal with the planning administrator. The notice shall be on a form prescribed by the planning administrator, shall state the name and address of the applicant, and shall specify the error in the decision made by the planning commission in the enforcement of this article or of any ordinance adopted pursuant thereto. The notice shall be filed within 15 days of the decision which is being appealed. Within ten working days of receipt of the appeal, the planning administrator shall forward the notice of appeal to the village clerk along with a request to schedule a hearing on the appeal before village council. Prior to the hearing the planning administrator shall provide the village clerk with copies of all the documents constituting the record of the case appealed, and such further facts as may be pertinent or material to show the grounds of the decision appealed including the approved minutes of the planning commission meeting at which action on the application was taken. The planning administrator shall give written notice of receipt of an appeal to the applicant, the appellant, a representative of the opponents if any are known, and to any other parties who have requested to be so informed. Said notice shall be mailed by regular mail within ten working days of receipt of the appeal.
- (c) *Stay of proceedings.* The filing of a notice of appeal shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, committee or board from whom the appeal is taken certifies that, by reason of facts stated in the certificate, a stay would cause imminent peril

to life and property. Upon certification, the proceedings shall not be stayed other than by a restraining order granted by the district court on notice to the village clerk with due cause shown.

(d) *Notice of hearing.* Upon receiving the notice of appeal from the planning administrator, the village clerk, in consultation with the mayor and village manager, shall place a request to schedule a public hearing on an upcoming village council meeting agenda. Once the village council has voted to schedule the public hearing, the village clerk shall cause to be published in a newspaper of general circulation in the village a notice of the time, date, place and purpose of the hearing at least ten days prior to the date of the hearing. The planning administrator shall give written notice of the date, time and place of such hearing to the applicant, the appellant, a representative of the opponents if any are known, any persons who appeared before the planning commission during its consideration of the matter, and any other parties who have requested to be so informed. Such notice shall be mailed at least 12 days prior to the date of the hearing. In addition, if the appeal relates to a specific site, a similar notice shall be mailed by the planning administrator at least 12 days prior to the date of the hearing to each owner of property situated within the required notification area of the property to which the appeal relates. The appellant shall furnish an abstractor's certified property certificate showing the property ownership within the required notification area of the property. The planning administrator shall make a copy of the notice and a list of the owners and addresses to which the notice was sent as a part of the record of proceedings. The failure to receive notice by individual property owners shall not invalidate the proceedings. If requested, the planning administrator may provide notice by fax or email, if the planning administrator has facsimile numbers or email addresses available, in lieu of mailed notice. Faxed or emailed notice shall be sent at least ten days prior to the meeting at which the case is to be heard by the village council.

(e) *Review and decision.* No sooner than 15 days from the date of public notice, the council shall hear the appeal, and render a decision within 45 days. The council shall consider oral and written testimony from the appellant, his agent or attorney, village staff members and other interested parties. All such oral testimony, other than attorneys' statements and questions, shall be in accordance with the provisions of section 54-61(f)(8), relating to testimony and evidence before the planning commission. The council shall also study the record of the action on the appeal. If postponed, the council shall make a decision on the appeal at its next regularly scheduled meeting. The council, by a two-thirds vote of all of its members, may:

- (1) Reverse any order, requirement, decision or determination of the planning commission;
- (2) Decide in favor of the appellant; or
- (3) Make any change in any order, requirement, decision or determination of the planning commission.

If the council fails to so decide by a two-thirds vote of all of its members, or if it decides by a simple majority of those members present to uphold the decision of the planning commission, then the decision of the planning commission shall stand.

- (f) *Notice of decision.* The council shall issue a written notice of its decision to all concerned parties and to the village clerk. The notice shall state the facts of the matter as determined by the council, the reasons for its decision, and any conditions applied to the decision.

REPLACED BY 54-45(Code 1985, § 10-2-2; Ord. No. 96-01, 1-9-96; Ord. No. 98-17, § 2, 11-10-98; Ord. No. 2008-11, 10-14-08)

Sec. 54-41 PLANNING AND ZONING COMMISSION

- (a) *Established; purpose.* The planning commission is hereby established for the purpose of preparation and updating of the comprehensive plan or other specific plans through various means such as zoning, subdivision, annexation and other related techniques to promote the general welfare of the village and to secure efficiency, economy and concerted effort in its growth and development and carry out the purpose of this article as set out in [section 54-32](#), and the duties as set out in subsection (e) of this section. The planning commission may be referred to in this article as the "commission."
- (b) *Membership; appointment of members; compensation of members.* The planning commission may consist of up to seven members, but shall not have less than five members, who shall be residents of the village representing, insofar as possible, different professions or occupations. Two members may be from the three-mile planning jurisdiction. Members shall be appointed by the mayor with the approval of the majority vote of the council. Members of the planning commission shall serve without pay of any kind except actual expenses, and shall hold no other municipal or county office.
- (c) *Term of members; removal of members; vacancies.* The terms of members of the planning commission shall be two years, with staggered terms, with half of the members' terms expiring in March of even-numbered years and half of the members' terms expiring in March of odd-numbered years. All members shall hold office until their successors are appointed and qualified. Any members of the planning commission may be removed by the mayor with the consent of the majority vote of the council for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause. Vacancies occurring other than through the expiration of the term shall be filled for the unexpired term by the mayor with the approval of a majority vote of the council.
- (d) *Officers; meetings and rules of procedure.* The planning commission shall elect a chairman from the members of the commission and shall create and fill such other of its offices as it may determine. The chairman shall be eligible for reelection. The commission shall hold at least one regular meeting each month at such time and place as may be fixed by the commission. Special meetings of the commission may be fixed by the commission. Special meetings of the commission may be called by the chairman, or by any five members of the commission. A majority of four members of the commission shall constitute a quorum for the transaction of business. The commission may adopt such other rules and regulations governing its organization and procedures as it may deem

necessary so long as they are not inconsistent with this article and the laws of the state. The commission shall keep a record of its resolutions, transactions, findings, policies and determinations, and this record shall be a public record.

(e) *Duties.* It shall be the duty of the planning commission to:

- (1) Submit and recommend to the council a proposed official zoning map and recommend whatever regulations and restrictions concerning the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land it shall deem to be in the best interest of the village and its inhabitants.
- (2) Prepare and recommend to the council for adoption a comprehensive plan.
- (3) Hold a public hearing on all requests for zone changes and initial zoning and forward its recommendations to the council.
- (4) Recommend to the council any amendments to this article that may be needed concerning the plotting or use of land in any district, or restrictions upon buildings or structures therein.
- (5) Review or delegate review of site plans for multiple-dwelling, commercial and industrial developments and determine the appropriate action and requirements for each site plan of the development as set out in this article.
- (6) Make determinations and decisions regarding conditional uses as provided for in this article.
- (7) Make recommendations to the council on matters regarding the interpretation, enforcement and administration of article III of this chapter, pertaining to subdivisions.
- (8) Vary or adjust the strict application of the requirements of this article in the case of an irregular, narrow, shallow or steep lot or other physical condition applying to a lot or building as a result of which strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. Any such variance granted shall be granted according to the requirements and procedures established by this article. Variances may be granted only for hardships related to the physical characteristics of land. Variances to this article related to permitted, accessory and/or conditional uses in any district shall not be allowed. No variance or adjustment in the strict application of any provision of an ordinance may be granted unless:
 - a. Special circumstances or conditions, fully described in the commission's findings, are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of the ordinance from which this article is derived. Nonconforming lot size shall be considered a special circumstance in accordance with [section 54-80](#)
 - b. For reasons fully set forth in the commission's findings, the circumstances or conditions are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose; and
 - c. The granting of the variance is in harmony with the general purpose and intent of this

article and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- (9) Grant exceptions and variances upon request after a showing that an illegal construction or a nonconforming building or use existed for a period of at least seven years in violation of this article and the village, with knowledge of the existence of the condition, has not taken any steps toward elimination of such violation of this article.
- (10) Oversee reduction of district dimensional requirements for nonconforming lots in accordance with [section 54-80](#).

The planning commission shall be able to grant variances from those sections of this article where the granted variance would not be prohibited by federal or state law, rule or regulation. Areas specifically excluded from this clause would be sign regulations and building codes unless specifically allowed. This clause would supersede any conflicting clause in this article.

Sec. 54-42 COMMUNITY DEVELOPMENT DEPARTMENT

In addition to the jurisdiction, authority and duties which may be conferred upon the Community Development Department by other provisions of the Ruidoso municipal code and New Mexico Statutes, the Community Development Department has the following jurisdiction, responsibilities and duties under this Land Development Code:

- (a) To review, consider and interpret Land Development Code text and the official zoning map;
- (b) To review and make recommendations for the disposition of applications for permits or approvals;
- (c) To receive applications for development review and development permits for processing pursuant to the procedures of the Land Development Code;
- (d) To serve as the administrative support to the Planning and Zoning Commission;
- (e) To ensure that adequate public notice is provided for development applications pursuant to requirements of the Land Development Code;
- (f) To initiate requests to the city attorney to institute proceedings against the violators of the Land Development Code;
- (g) To undertake the Planning and Zoning Commission's long-range comprehensive planning, development plan review and zoning review responsibilities;
- (h) To review, as necessary, but at least every 5 years, the comprehensive plan and the Land Development Code and recommend amendments to the Planning and Zoning Commission and the Village Council;

Sec. 54-43 PLANNING ADMINISTRATOR

- (a) *Office of planning administrator established; staff; supervision.* The staff position of planning administrator is hereby established for the general and specific administration of this article. The duties of the planning administrator may be performed directly by the planning administrator or by such staff as may be designated by the planning administrator specifically for the administration of this article. The planning administrator shall perform all duties under the direction of the village manager or assistant village manager.
- (b) *General duties of planning administrator.* It shall be the duty of the planning administrator to:
 - (1) Receive, process, record and administer all requests for approvals and permits as governed by this article, except that building permits shall be issued by the building official after review by the planning administrator.
 - (2) Advise and recommend to the planning commission and the council regarding requests for approvals and permits as required by this article.
 - (3) Perform such inspections, observations and analyses of any and all erection, construction, reconstruction, alteration, repair or use of buildings, structures or land within the jurisdiction of the village relating to the regulations and restrictions as set forth in this article.
- (c) *Right of entry of planning administrator.* The planning administrator or his agent is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this article and shall have the authority to enter at reasonable times upon any private or public real property for the purpose of inspecting and investigating conditions relating to the enforcement of this article.

Sec. 54-44 CITY ATTORNEY

In addition to the jurisdiction, authority and duties that are conferred upon the city attorney by other provisions of the city code, the city attorney has the following authority and duties under the Land Development Code:

- (a) To review for form all written findings of fact and resolutions drafted by the Community Development Department staff, Planning and Zoning Commission and Zoning Hearing Officer in connection with any requirement of this Section;
- (b) To review for form all development agreements, easements, declarations of covenants, letters of credit, performance guarantees or other such documentation in connection with any requirement of this Section; and
- (c) To advise the Village Council, Community Development Department staff and Planning and Zoning Commission in regard to the legal issues which may arise during implementation of the Comprehensive Plan and the Land Development Code.

Sec. 54-45 JUDICIAL RELIEF; APPEALS TO DISTRICT COURT

A final decision on the review and approval procedures of Sec. 54-XX may be appealed to District Court, pursuant to Section 3-21-9 NMSA 1978, provided that all local appeals and remedies have been exhausted. Matters that could be resolved via a variance or appeal of an administrative decision may be

submitted to District Court only upon completion of the local appeal procedures specified in this Land Development Code.

DIVISION 3: DEFINITIONS

Sec. 54-46 DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Except as specifically defined in this article, all words used in this article shall have their customary dictionary definitions.

General definitions and rules of construction. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular. The word "shall" is always mandatory. The word "person" includes a firm, association, organization, partnership, trust, corporation or company, as well as an individual. The word "lot" includes the words "plot" and "parcel." The word "building" includes the word "structure." The words "used" and "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied." The words "map" and "zoning map" mean the official zoning map of the village that delineates the area to be governed by this article.

Accessory building or use means a subordinate building, or portion of the principal building, located on the same lot as the principal building, or a subordinate use of land, either of which is customarily incidental to the principal building or to the principal use of land. Where part of an accessory building is connected to part of the principal building in a substantial manner, as by a roof, such accessory building shall be counted as part of the principal building.

Adult use, retail and/or entertainment means an establishment where at least twenty-five (25) percent or more of the gross area is devoted to retail, distribution, depiction, or entertainment distinguished by an emphasis on the description, exposure, or representation of sexually-oriented material, specified anatomical areas, and/or specified sexual activities. **Agricultural/ranching** means the cultivation of the soil or the raising of livestock and all activities incidental thereto. The terms "farming" and "ranching" shall be interchangeable for purposes of this article.

Alcohol/ Liquor Related Definitions

Bar or nightclub means an establishment with which derives at least one-half of the total sales from beer or liquor consumed on the premises. This use may include music and entertainment.

Brewery means a business which involves manufacturing beer (see **Manufacturing**).

Small liquor producer means the production of beer, wine, or spirits associated with an approved Small Brewer's License as governed by Section 60-6A-26.1 NMSA 1978, an approved Winegrower's License as governed by Section 60-6A-11 NMSA 1978, or an approved Craft Distiller's License as governed by Section 60-6A-6.1 NMSA 1978. Annual production shall be limited by State statute. This use does not include alcohol sales. Alcohol sales associated with brewing on-site is regulated pursuant to the tap room or tasting room use.

Distillery means a business for the manufacture of spirituous liquors (see **Manufacturing**).

Winery means a licensed premise in which a winegrower manufactures and stores wine or cider

(see **Manufacturing** definition).

Tap room/tasting room means an establishment associated with a local brewery, winery, or distillery. Establishments must have an approved “small brewer’s license” as governed by 60-7A-26.1 (stet) NMSA 1978, an approved “winegrower’s license” as governed by 60-6A-11 NMSA 1978, or an approved “craft distiller’s license” as governed by 60-6A-6.1 NMSA 1978. Annual production shall be limited by state statute. Sale of materials produced on-site for off-premises consumption is allowed.

Alley (see transportation related definitions)

Apartment building See **Dwelling Multifamily**

Area of shallow flooding (see flood related definitions)

Automotive/ Vehicle Related Definitions:

Auto wrecker service means a lot or yard where three or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, sale of parts, or sale as scrap.

Automobile includes all light vehicles, such as passenger cars and light trucks.

Automobile fuel station means an establishment with the primary business function of the retail sale of gasoline for passenger car use and convenience retail sales along with minor service and repair work incidental to the operation of passenger automobiles.

Automobile washing establishment means a building which has as its primary purpose washing automobiles. Such facilities shall be considered incidental to automobile fuel stations if no more than one auto may be washed at one time and if the fuel station is clearly the principal use.

Heavy vehicle and equipment sales, rental, fueling, and repair means a facility that is engaged in the sales, fueling, rental, and/or repair of heavy vehicles and equipment typically used in agricultural, transit, commercial, or industrial operations. Sales of parts, whether new or used, for heavy vehicles and equipment, and incidental storage of heavy vehicles related to sales, rental, fueling, repair, service, and maintenance are included in this use.

Automobile repair means any facility providing vehicle repair, service, or maintenance of passenger cars.

Sales lot for automobiles, boats or recreational vehicles means a lot or area used for commercial display and sales only of three or more automobiles, boats or recreational vehicles or any combination thereof, with or without a sales office on-site and without service facilities.

Banner (see **Sign** related definitions)

Basal area (see **Forest Management** related definitions)

Basement means a portion of a building located partly underground but having not less than half its floor-to-ceiling height below the average grade of the adjoining ground.

Block frontage means all of the property of a given lot or any portion thereof lying adjacent to a public street or highway.

Boardinghouse means an establishment in a private dwelling in which more than one guestroom is used to provide or offer overnight accommodations and meals for transient guests.

Building Related Definitions:

Building means any structure having enclosed space and a roof for the housing and/or enclosure of persons, animals or property, except mobile homes and mobile offices.

Building area means the maximum horizontal projected area of the principal and accessory buildings, excluding open steps, terraces, unenclosed porches of one story, and architectural appurtenances projecting not more than two feet. Building area, as that portion of a lot upon which construction is permitted, is as follows: that area of a lot that lies within the boundaries of the front, side and rear yard setback requirements measured from the actual lot line.

Building, attached means a building having one or more party walls in common with another building when the principal use of each building is independent of the other and when no interior access exists from one building to another.

Building, detached means a building having no party wall in common or structural connection with another building.

Building envelope means that area of a lot lying between the front, rear, and side yard setback lines and between ground level and the maximum allowable building height.

Building, front line of means the line of the face of a building nearest the front line.

Building, height of means the vertical distance from the average contact ground level of the front and rear walls of the building to the highest point of the coping of a flat roof, or to the deck of a mansard roof, or to the mean height level between eaves and ridges for gable and hip or gambrel roofs.

Building line, front means the line nearest to the front across a lot establishing the minimum open space to be provided between the front line of a building and the front lot line.

Building line, rear means the line nearest to the rear across a lot establishing the minimum open space to be provided between the rear line of a building and the rear lot line.

Building, nonconforming means a legally existing building which fails to comply with the regulations set forth in this article applicable to the zone in which the building is located.

Building, principal means a building in which is conducted the main or principal use of the lot on which the building is situated.

Building, public means a building, supported by government funds, to be used in an official capacity on the behalf of the entire community.

Business means the engaging in or the purchase, sale, barter or exchange of goods, wares, merchandise or service; or the maintenance or operation of offices or recreational or amusement enterprises.

Campground means any area of land used to temporarily accommodate two or more camping parties, including cabins, tents, house trailers or other camping outfits.

Cannabis Related Definitions:

Cannabis means all parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight manufacture, salt, derivative, mixture or preparation of the plant. its seeds or its resin; and does not include:

- (a) the mature stalks of the plant; basis. whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound. manufacture, salt. derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; and Mature plant means a flowering or nonflowering cannabis plant that has taken root and is taller than 8 inches.
- (b) the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product.

Cannabis consumption area means an area where cannabis products may be served and consumed.

Cannabis manufacturer means a person that: (1) manufactures cannabis products; (2) packages cannabis products; (3) has cannabis products tested by a cannabis testing laboratory; or (4) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments.

Cannabis producer microbusiness means a cannabis producer at a single licensed premises that possesses no more than two hundred total mature cannabis plants at any one time.

Cannabis producer means a person that: (1) cultivates cannabis plants; (2) has unprocessed cannabis products tested by a cannabis testing laboratory; (3) transports unprocessed cannabis products only to other cannabis establishments; or (4) sells cannabis products wholesale.

Cannabis research laboratory means a facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

Cannabis retailer means a person that sells cannabis products to qualified patients, primary caregivers, reciprocal participants, or directly to consumers.

Cannabis testing laboratory means a person that samples, collects, and tests cannabis products and transports cannabis products for the purpose of testing.

Vertically integrated cannabis establishment means a person that is authorized to act as any of the

following: (1) a cannabis courier; (2) a cannabis manufacturer; (3) a cannabis producer; and (4) a cannabis retailer.

Cannabis Courier means a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

Integrated Cannabis Microbusiness Means a person that is authorized to conduct one or more of the following:

- (1) production of cannabis at a single licensed premises, provided that the person shall not possess more than two hundred total mature cannabis plants at any one time;
- (2) manufacture of cannabis products at a single licensed premises;
- (3) sales and transportation of only cannabis products produced or manufactured by that person;
- (4) operation of only one retail establishment; and
- (5) couriership of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

Commercial cannabis activity means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriership, purchase for resale, sale or consignment of cannabis products; and does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis.

On-site Cannabis Consumption Premises means on-site consumption of cannabis includes the smoking, vaporizing, and ingesting of cannabis or cannabis products on a licensed premise.

Standalone Building means a building whose heating, air conditioning and ventilation system services only that building.

Carport means a structure consisting of a roof and either walls or columns and is open to the exterior at two full length walls minimum for the purpose of housing automotive vehicles and other chattels. The structure shall be considered as an accessory building when detached from the principal building or as a part of the principal building when attached to the principal building along one or more sides of the carport or principal building.

Carport, temporary or portable means those which are designed to be portable, are prefabricated off-site for assembly and/or installation on-site, having exterior finish of fabric, fiberglass, plastic, thin metal or like materials, whether or not carport is set on permanent foundation.

Cemetery means land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Child and Adult Daycare Definitions

Adult or Child Day Care Facility means a facility other than an occupied residence that provides care for more than 12 individual adults or children during the day. [This use includes pre-schools]. This use does not include overnight care. See also see Group Home.

Childcare center means a facility required to be licensed by the State of New Mexico that provides care, services, and supervision for less than 24-hours a day to children. A child care center is in a non-residential setting and meets applicable state and local building and safety codes

Family childcare home means a private dwelling required to be licensed by the State of New Mexico that provides care, services, and supervision for a period of less than 24 hours of any day for no more than six children. The licensee will reside in the home and be the primary educator.

Group childcare home means a home required to be licensed by the State of New Mexico, which provides care, services, and supervision for at least seven but not more than 12 children. The licensee will reside in the home and be the primary educator.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Clinic and medical center mean an establishment where patients are admitted for special study and treatment by one or more licensed physicians and/or dentists and their professional associates, as distinguished from a professional office for general consultation purposes.

Club, private (nonprofit) means a nonprofit association of persons who are bona fide members paying annual dues which owns, hires, or leases a building or a portion thereof, the use of such premises being restricted to members and their guests.

Code enforcement officer means village staff designated by the village manager to enforce provisions of the ordinances of the village.

Conditional use permit means legal authorization to undertake a conditional use as defined by this article.

Convenience food restaurant means an establishment whose principal business is the sale of foods, frozen desserts, or beverages to the consumer in a ready-to-eat state for consumption either within the premises or for carryout with consumption either on or off the premises and whose design or principal method of operation includes both of the following characteristics:

- A. Foods, frozen desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers.
- B. The customer is not served food at his table by an employee but receives it at a counter, window, or similar facility for carrying to another location for consumption either on or off the premises.

Corporation counsel means the village attorney or any assistant or special counsel of the village.

Density, gross residential means the number of dwelling units per unit of land calculated with no exclusion.

Density, net residential means the number of dwelling units per unit of land, excluding streets and

publicly owned property.

Development means any manmade change to improve or alter real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or cutting of trees whose circumference is greater than 60 inches.

Drive-in business means any business in which a customer is served in a motor vehicle and remains on site. Such businesses include but are not limited to the following: drive-in movie theater and drive-in restaurant. This does not include businesses with drive up or drive through service windows. See Drive up or drive through window)

Drive up or drive through service window means a customer service facility located within the principal structure as an accessory to an office or retail establishment which is intended to enable a customer to transact business with an employee located within the principal structure without exiting the motor vehicle. Typical businesses that have drive up or drive through service windows include restaurants, pharmacies, and financial institutions,

Dwellings/ Dwelling Related Definitions:

Apartment building See Dwelling, Multifamily.

Caretaker quarters means a dwelling unit that is complimentary to a non-residential principal use and needed for security or 24-hour supervision.

Condominium means a building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. Condominiums may be residential, commercial, or industrial in nature.

Condominium hotel (timeshare condominium) means a condominium set up like a hotel in which each room is individually owned and in which some or all rooms are available to transients for rent.

Dwelling, Accessory means a building, or portion thereof, used for residential occupancy, including single-family, two-family and multiple-family dwellings, and dwelling rentals, but not including hotels, motels or tourist homes.

Dwelling, multifamily means a building, or portion thereof, used for occupancy by three or more families living independently of each other.

Dwelling, rental means dwelling units that may be rented on a nightly, weekly, monthly, or long-term basis, provided there is no onsite advertisement; density may not exceed district regulations.

Dwelling, single-family means a building used for residential occupancy by one family.

Dwelling, two-family means a building, or portion thereof, used for occupancy by two families living independently of each other, also referred to as a "duplex."

Dwelling unit means a dwelling, or portion of a dwelling, used by one family and containing a bathroom, kitchen, and sleeping spaces.

Live/ work unit means a single unit consisting of both a commercial/ office space and a residential dwelling component that is operated by the resident. The live/ work unit shall be the primary dwelling of the occupant.

Townhouse means a single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent buildings by party walls or are located immediately adjacent thereto with no visible separation between walls or roof, all of which dwellings may be located on individual and separate lots if individually owned, or upon a single lot if under common ownership.

Townhouse cluster means a building consisting of three or more noncommunicating, attached one-family units, placed side by side and having a common wall between each two adjacent dwelling units.

Electrical Vehicle Charging Stations and Equipment Related Definitions:

Electric vehicle (EV) charging station means a public or private parking space that is served by battery charging station equipment for the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle.

Level designations are the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms Level 1, 2, and 3 are the most common EV charging levels, and include the following specifications:

Level 1 is considered slow charging and operates on a 15 to 20 amp breaker on a 120 volt AC circuit.

Level 2 is considered medium charging and operates on a 40 to 100 amp breaker on a 208 or 240 volt AC circuit.

Level 3 is considered "fast" or "rapid" charging and typically operates on a 60 amp or higher breaker on a 480 volt or higher three phase circuit with special grounding equipment. Level 3 stations are primarily for commercial and public applications and are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

Family means one or more persons related by blood, marriage or adoption, or not more than three unrelated persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, motel, club, fraternity, sorority or lodging house.

Farm means an area which is used for growing, raising, producing and storage of agricultural products on a commercial basis, such as timber, livestock, poultry, and foodstuffs, including the residence of those conducting and engaged in the operation. A farm shall not include commercial feedlots or sanitary landfills.

Fence means a barrier constructed of materials erected for the purpose of protection, confinement, enclosure or privacy.

Flood Related Definitions:

100-year flood means the highest level of flooding that, on the average, is likely to occur once every

100 years (i.e., that has a one percent chance of occurring each year).

Area of shallow flooding means a designated AO zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Flood insurance rate map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and risk premium zones applicable to the community.

Flood insurance study means the official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.

Floodplain, 100-year means that area encompassing the floodway area and the floodway fringe.

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage or potential flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

Floodway, 100-year means the channel of a river or other watercourse and the adjacent land areas which must be kept free of encroachment in order to carry and discharge a flood of 100-year magnitude without substantial increases in flood height.

Floodway encroachment lines means the lines marking the limits of floodways on the zoning map.

Floodway fringe, 100-year means the area between the floodway and the 100-year flood boundary.

Forest Management Related Definitions:

Advanced infestation means any insect, pest, fungal growth, parasite or other infestation which threatens the life of a tree according to United States Forest Service standards.

Basal area means the cross-sectional area in square feet of each tree in a stand of timber as measured at breast height (4.5 feet). The equation for basal area per tree is: $\text{Basal Area} = 0.005454 \times \text{DBH} \times \text{DBH}$

Defensible space means an area, either natural or manmade, where materials capable of allowing a fire to spread unchecked have been treated, cleared, or modified to slow the rate and intensity of advancing wildfire and create an area for fire suppression operations to occur.

Diseased tree means a tree that shows signs of severe damage, structural unsoundness or advanced infestation.

Forest/urban interface means an area where development and forested area meet at a well-

defined boundary.

Forest/urban intermix means an area where development and forested area meet with no well-defined boundary.

Fuel break means, generally, a wide strip of land on which native vegetation has been permanently modified so that fires burning into it can be more readily controlled. Some fuel breaks contain narrow fire breaks, which may be roads or narrow hand-constructed lines. During fires these line breaks can quickly be widened either with hand tools or firing out.

Fuel modification means a method of modifying fuel load by reducing the amount of non-fire-resistive vegetation to reduce the fuel loads.

Healthy tree means a tree that shows no signs of severe damage, structural unsoundness or advanced infestation.

Ladder fuels means fuels which provide vertical continuity between strata. Fire is able to carry from surface fuels into the crown of trees or shrubs with relative ease and ensure initiation and continuity of crowning.

Mature tree means a tree measuring ten inches or more in diameter at 4.5 feet above ground level.

Slash means the debris created from cutting trees and forest growth.

Tree manipulation activity means cutting or thinning of mature trees.

Tree protective zone means the portion of any lot or parcel covered by the front, rear and side yard requirements of this article.

Tree removal means any act which causes a tree to die within a period of two years, including but not limited to damage inflicted upon the root system by machinery, storage of materials and soil compaction; changing the natural grade above the root system or around the trunk; damage inflicted on the tree permitting infection or pest infestation; excessive pruning; or paving with concrete, asphalt or other impervious material within such proximity as to be harmful to the tree.

Forest/urban interface means an area where development and forested area meet at a well-defined boundary.

Forest/urban intermix means an area where development and forested area meet with no well-defined boundary.

Fuel break means, generally, a wide strip of land on which native vegetation has been permanently modified so that fires burning into it can be more readily controlled. Some fuel breaks contain narrow fire breaks, which may be roads or narrow hand-constructed lines. During fires these line breaks can quickly be widened either with hand tools or firing out.

Fuel modification means a method of modifying fuel load by reducing the amount of non-fire-resistive vegetation to reduce the fuel loads.

Garage, private means a detached accessory building, or portion of a main building, used for the storage of self-propelled vehicles, where the capacity does not exceed three vehicles per family housed in the building to which such garage is accessory. Not more than one-third of the total number of vehicles stored in such garage shall be commercial vehicles.

Garage, public means any building or premises, except a private garage, used for the storage or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

Grocery Store means an establishment that sells a wide variety of goods organized in departments, including but not limited to fresh produce, meat and dairy, canned and packaged food items, small household goods, and similar items, with more than 50 percent of the gross floor area devoted to the sale of food products for home preparation and consumption.

Ground floor area means the square foot area of a building within its largest outside dimension computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages, exterior stairways, and secondary stairways.

Group home means a single residential structure having common kitchen facilities occupied by persons having physical, mental, emotional, or social problems and living together for the purpose of training, observation and/or common support.

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof.

Healthy tree means a tree that shows no signs of severe damage, structural unsoundness, or advanced infestation.

Home occupation or profession means any use conducted entirely within a dwelling and carried on solely by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and which meets the requirements of this article.

Hospital includes a sanitarium, preventorium or clinic, provided such institution is operated by or treatment is given under the direct supervision of a physician licensed to practice by the state.

Hotel and motel mean a building or portion thereof, or a group of buildings, in which lodging is provided and offered to transient guests for compensation; this shall not include a lodging house. Cabin rentals are included in this land use type.

Industry, heavy means those industries whose processing of products results in the emission of any atmospheric pollutant, light flashes, or glare, odor, noise or vibration which may be heard and/or felt off the premises, and those industries which constitute a fire or explosion hazard.

Industry, light means those industries whose processing of products results in none of the conditions described for heavy industry.

Junkyard means any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted,

including but not limited to use of salvaged base metals or their compounds or combinations; and used or salvaged rope, bags, rags, glass, rubber, lumber, millwork, brick, automobiles and similar property which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

Kenel means any lot or premises on which are kept ten or more dogs, cats or small animals over eight weeks of age, for any purpose, or on which there is commercial boarding or breeding of dogs or cats. The term does not include premises for the boarding of animals by a nonprofit organization which is dedicated to permit the humane care and treatment of animals.

Loading and unloading berth means the off-street area required for the receipt of or distribution by vehicles of material or merchandise.

Lodging house means a building with more than two but not more than ten guestrooms where lodging with or without meals is provided for compensation.

Lot Related Definitions:

Lot means a piece, parcel, plot, tract or area of land occupied or capable of being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required under this article, and having its principal lot frontage on a street.

Lot, corner means a lot at a junction of and fronting on two or more intersecting streets.

Lot coverage means the percentage of the lot area covered by buildings.

Lot depth means the horizontal distance of a line measured at a right angle to the front lot line and running between the front lot line and rear lot line of a lot.

Lot, interior means a lot other than a corner or through lot.

Lot line, front, in the case of an interior lot, means a line separating the lot from the street, and in the case of a corner lot means a line separating the narrowest street frontage of the lot from the street, except that, where the lot is square or nearly so, the owner may choose which of the two street frontages is to be considered the front lot line.

Lot line, rear means a lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot line, side means any lot boundary line not a front lot line or a rear lot line.

Lot, through means a lot having frontage on two parallel or approximately parallel streets.

Lot width means the distance, measured in a straight line, between side lot lines at the points of intersection with the setback line.

Manufacturing Definitions:

Manufacturing means the creation of products either with machinery or by hand according to an organized plan and with the division of labor.

Artisan manufacturing means small-scale manufacturing and related processes or activities — often by an artist, artisan, or craftsperson working with materials either by hand or with minimal automation or technology. This use includes incidental storage, wholesaling of products manufactured at the facility, and direct sales to consumers. Small breweries, wineries, and distilleries meeting state regulations are considered to be artisan manufacturing.

Light manufacturing means assembly, fabrication, or processing of goods and materials, primarily conducted within an enclosed building, which is designed, built and maintained to prevent smoke, noise, glare, dust, odors or other development impacts from being detected beyond the boundaries of the property. Assembly, fabrication, or processing may include compounding, processing, assembling, packaging, or testing of goods.

Heavy manufacturing means mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors. This use creates greater than average impacts on the environment or has significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, but does not include special manufacturing (see special manufacturing).

Special manufacturing means processes that input or create hazardous by-products, as defined by federal regulation, during manufacturing, assembly, fabrication, or materials treatment, or that use manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts, including but not limited to explosions or leakage of nuclear or electromagnetic radiation into the environment or surrounding areas.

Minimum means not less than the requirement indicated, but may be greater, if necessary, to meet the development standards of this article.

Mining means the extraction of sand, gravel, or other material from the land in the amount of 400 cubic yards or more, and the removal from the site with or without processing.

Mobile/ Manufactured Home Definitions:

Manufactured home means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer has received certification from the United States Department of Housing and Urban Development and complies with the standards of the Manufactured Home Construction and Safety Standards Act; and except that such term shall not include any self-propelled recreational vehicle (42 USC 5402).

Mobile home means a movable or portable housing structure larger than forty feet in body length, eight feet in width or eleven feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes that is not constructed to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code, as amended to the date of the unit’s construction or built to the standards of any municipal building code (NM Statutes 3-21A1-8).

Mobile home park means any plot of ground upon which two or more mobile homes, occupied, or intended to be occupied for dwelling or sleeping purposes, are located.

Mobile home space means a plot of ground within a mobile home park designed for the accommodation of one mobile home.

Mobile home stand means that portion of an individual mobile home space which has been reserved for the placement of a mobile home and structures or additions appurtenant to the mobile home.

Mobile home subdivision means a subdivision designed for the express purpose of placing mobile homes on the individual lots.

Modular home means a structure, built in a manufactured or mobile home building facility, transported in sections to the home site and joined together. Modular homes are built to conform to all applicable standards of state, local, and/or regional building code.

Multi-section manufactured home means a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six by twenty-four feet at least eight hundred sixty-four square feet and constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 of the Uniform Building Code, as amended to the date of the unit’s construction, and installed on a permanent foundation consistent with the Manufactured Housing Act (NM Statutes 3-21A1-8).

Mobile office means a factory-assembled structure exceeding eight feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit on its own running gear and designed to be used as an office without a permanent foundation, whether or not the running gear has been removed.

Mobile Vending Related Definitions:

Mobile food truck means any wagon, truck, trailer, or other vehicle that is propelled by an engine or motor vehicle and from which any person sells, offers for sale, or gives away food or beverages.

Mobile food cart means a vehicle without motive power that has functional wheels and at least one axel and is used for the sale of food or beverages.

Mobile food vending pod means more than three mobile food vending units congregated at an established location for the sale of food and beverages.

Mobile vending truck means any wagon, truck, trailer, or other vehicle that is propelled by an engine or motor vehicle and from which any person sells, offers for sale, or gives away prepackaged food or beverages, food or beverage items that do not require temperature regulation, or other non-food items.

Mobile vending cart means a vehicle without motive power that has functional wheels and at least one axle and is used for the sale of goods, including packaged food or beverages, food or beverages that do not require temperature regulation, raw produce, flowers, arts, and crafts.

Neighborhood park means publicly or privately owned land that is maintained for active or passive recreational use and for the use and enjoyment of the general public or the residents or occupants of a the surrounding neighborhood. This use includes areas consisting of vegetative landscaping and/or areas improved for outdoor sports and recreation. Structural improvements are generally limited to those that facilitate the use of the land as a park. Incidental activities and structures include, but are not limited to, playgrounds, maintenance facilities, swimming pools, restrooms and dressing rooms, concessions, caretaker’s quarters, and parking.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance from which this article is derived.

Noxious matter or material means material capable of causing injury to living organisms by chemical reaction or capable of causing detrimental effects on the physical or economic well-being of individuals.

Offices means structures, or portions of structures, in which commercial activities take place but where goods are not produced, sold or repaired. These include banks, general and professional offices, governmental offices, insurance offices, real estate offices, taxicab offices (but not taxi stands), travel agency or transportation ticket offices, telephone exchanges, utility offices, radio broadcasting, coworking spaces, and similar uses.

Open sales (or rental) lot means any land used or occupied for the purpose of buying, selling or renting, for use away from the premises, any goods, materials or merchandise, and for the exterior storing of such goods, materials or merchandise prior to sale or rental.

Overlay zone means a zone superimposed upon an underlying zone, which establishes special requirements in addition to those of the underlying zone. Development or use of land or structures must conform to the requirements of both zones or the more restrictive of the two, if in conflict.

Parking area, public means an open area, other than a street or alley, designated for use or used as temporary parking for four or more vehicles, when available for public use, whether free or for compensation or as an accommodation for clients or customers.

Parking space, off-street means a space designated for the temporary parking of a motor vehicle not on the right-of-way or alley but accessible from a street or alley.

Party wall means any wall of a building or structure which is common to two or more buildings.

Paved parking space or surface means an area covered by an impervious dust free surface of asphalt or concrete designed to specifications of the village engineer.

Person includes any individual or group of individuals, corporations, partnerships, associations or any other organized group of persons, including state and local governments and agencies thereof.

Personal and convenience services means businesses offering services, such as barbershops, beauty shops, laundromats, laundry and dry cleaning pickup and delivery stations (but excluding actual laundry operations), and similar uses.

Planning administrator means village staff designated by the village manager or assistant village manager to be responsible for the administration of this article.

Plant nursery means a primary use of land for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted in or outside an enclosed structure or greenhouse. Outdoor sales of plants are allowed. Plant nursery does not include growing, display or sale of cannabis plants.

Property, personal means property other than real property, consisting of things temporary and movable.

Property, real means property in buildings and land.

Public hearing means a meeting announced and advertised in advance and open to the public where the public has the right, within prescribed rules, to participate and be heard.

Public meeting means a meeting open to the public where the public has the right to attend and listen to the proceedings. Participation by the public shall be at the discretion of the public body.

Ranch means an area utilized for the primary purpose of raising and producing livestock, including the residence of those conducting and engaged in the operation.

Recreational vehicle (RV) means the following:

- A. Travel trailers, camping trailers, fifth-wheel trailers and all other vehicles that are constructed to include a chassis, integral wheels and a towing hitch, and are primarily designed or constructed to provide temporary, readily moveable living quarters for recreation, camping or travel uses. For purposes of this subsection, readily movable shall mean movable within 24 hours.
- B. Pickup campers, either mounted or nonmounted, or any structure designed to be mounted in the bed of a truck and providing living quarters for recreation, camping or travel uses.
- C. Chassis mount, motor home, mini-motor home or other recreational structures or vehicles constructed integrally with a truck or motor van chassis and incapable of being separated therefrom and designed to be used for moveable living quarters for recreational, camping or travel uses.
- D. Recreational vans or converted and chopped vans or other vehicles which are either initially constructed or converted to contain living quarters for recreational, camping or travel uses.

Recreational vehicle park (RVP) means a tract of land at least two acres in size, on which individual recreational vehicles are parked temporarily in rental spaces for periods not exceeding 150 days during any 12-month period. Recreational vehicles may not be stored in recreational vehicle parks.

Restaurant means any restaurant (except a drive-in restaurant or a convenience food restaurant), coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, drugstore or soda fountain serving food, and all other eating or drinking establishments provided that at least one-half of the total sales are derived from the sale of food.

Retail

General retail means an establishment providing for the retail sale of general merchandise or food to the general public for direct use and not for wholesale; including but not limited to sale of general merchandise, clothing and other apparel, flowers and household plants that are not grown on-site, dry goods, convenience and specialty foods, hardware and similar consumer goods, cannabis for medical consumption, or other retail sales not listed as a separate use.

Shopping center means any grouping of four or more principal retail uses, whether on a single lot or on abutting lots, under multiple or single ownership, and whether contained in one building or multiple buildings.

School means any pre-primary, primary or grammar, public, parochial or private school, high school, preparatory school or academy, public or founded, owned or conducted by or under the sponsorship of a religious or charitable organization; any private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; any junior college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization; or any private school when not conducted as a commercial enterprise for the profit of individual owners or stockholders.

Screening means a solid or nearly solid barrier (i.e., wall, fence or plantings) constructed or installed for the purpose of visual separation.

Setback means the minimum horizontal distance between a building and the street or lot line.

Short-Term Rental means one or more dwelling units, including either a single-family detached or multi-family attached unit, rented for the purpose of overnight lodging for a period of not less than one night nor more than 29 consecutive days to the same person or persons.

Sign Related Definitions:

Banner means a sign of temporary construction of lightweight, flexible materials such as cloth, canvas, plastic or paper on which letters, numbers, symbols or pictures are printed or painted, with or without a frame.

Sign means any board, device or structure or part thereof used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purposes of showing street names or traffic directions or regulations for other governmental purposes shall not be included in this definition.

Sign, billboard means any non-accessory sign, whether freestanding, wall-mounted or roof-mounted.

Sign, non-accessory means a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Sign, wall means a sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign, and which does not project more than 18 inches from such building or structure.

Site Plan Related Definitions:

Concept plan means a sketch approximately to scale that shows the intended layout of a proposed development.

Site plan means a drawing to a scale not less than one-inch equals 100 feet showing the accurate location of all structures, streets, alleys and parking areas existing and proposed on subject property, or any other information as may be required by this article.

Construction documents means an accurate set of drawings and specifications prepared by a licensed professional architect or engineer that meet the required detail for a building permit.

Concept plan approval means an approval of a proposed development by a property owner prior to the preparation of a final site plan. The purpose of this approval is to provide relief for the property owner or developer from the expense of the required professionally prepared documents prior to reaching general agreement with the planning commission and the affected property owners of the proposed development.

Special exceptions mean any exceptions made to this article. Special exceptions to this article shall be limited to variances, conditional uses, and expansion of nonconforming uses, and shall not be granted except as prescribed in this article.

Spot zoning means rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.

Stable, private means any building located on a lot which is designed, arranged, used or intended to be used for not more than four horses for the private use of the owner of the lot, but shall not exceed 6,000 square feet in area.

Stable, public means a stable where horses are kept for remuneration, hire or sale.

Start of construction means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the state of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home

park or mobile home subdivision, the start of construction is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Streets/ Transportation Related Definitions:

Alley means a permanent public thoroughfare providing a secondary means of access to abutting lands.

Street means a right-of-way, other than an alley, dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property.

Street, arterial means a major street of exceptional continuity that is intended to carry the greater portion of through traffic from one area of the village to another.

Street, collector means a street designed to accommodate traffic within residential neighborhoods with the primary purpose of collecting and distributing traffic to and from the arterial streets.

Street frontage means any property line separating a lot from a street.

Street, public means any street which has been dedicated or is otherwise publicly owned by the village.

Strip development means commercial or retail development, usually one store deep, that fronts on a major street.

Structural alteration means any change in the supporting members of a building such as bearing walls or partitions, columns, beams or girders, or any change in the exterior walls or the roof.

Structure means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions; or
- B. Any alteration of a structure listed on the National Register of Historic Places.

Ten-foot zone means the area within ten feet of a structure, as measured from a line drawn perpendicular from the roofline of the structure to the ground.

Tobacco Products

Tobacco manufacturing means the process of making, producing, creating, fabricating, assembling, combining, or mixing tobacco products licensed under the New Mexico Tobacco Products Act (15.8.2 NMAC).

Tobacco retail means the retail sales of tobacco products licensed under the New Mexico Tobacco Products Act (15.8.2 NMAC).

Tourist home means an establishment in a private dwelling that supplies a building in which more than one but not more than five guestrooms are used to provide or offer overnight accommodations for transient guests for compensation.

Unobstructed utility easement means that no utility easement shall have trees or shrubbery growing into, around, or over, or have branches that with a snow or ice load threaten, any above ground utility line.

Use means the employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

Use, conditional means either a public or private use as listed in this article which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district. After consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, a permit for such conditional use may or may not be granted pursuant to the requirements of this article. A conditional use may be a principal use or an accessory use.

Use, nonconforming means an existing use of land or buildings which was legal prior to the effective date of the ordinance from which this article is derived but which fails to comply with the requirements set forth in this article applicable to the zone in which such use is located.

Use, permitted means a use which is lawfully established in a particular district and which conforms with all requirements, regulations and performance standards of such district. A permitted use may be a principal use or an accessory use.

Use, principal means a use or structure which determines the predominant or major use of the lot on which it is located. A principal use may be either a permitted or a conditional use.

Utility Related Definitions:

Utilities, major means a facility regulated as a public utility or common carrier by the state or other relevant jurisdiction or agency, including but not limited to major telephone facilities, electric facilities, natural gas facilities, water treatment plants, water pump stations, sewage treatment plants, stormwater drainage facilities, irrigation facilities, or similar public services. Major facilities are those sized or designed to serve the entire village, or a wide area of the village.

Utilities, minor means a facility regulated as a public utility or common carrier by the state or other relevant jurisdiction or agency. Minor utility facilities provide services that are necessary to support

development within the immediate vicinity and involving only minor structures. These include transformers, relay and booster devices and well, water, and sewer pump stations.

Variance means a modification or variation of the provisions of this article as applied to a specific piece of property. Dimensional variances only may be allowed, and only as prescribed by section 54-61(e)(8). No variance regarding use of property shall be permitted. No variances decreasing lot area requirements shall be allowed.

Variance, dimensional means departure from the terms of this article pertaining to height or width of structures and size of yards and open spaces where such departure will not be contrary to the public interest and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the action of the applicant, the literal enforcement of this article would result in unnecessary and undue hardship.

Warehouse means an enclosed building designed and used primarily for the storage of goods and materials.

Warehouse, residential storage and mini warehouse mean a building or group of buildings in a controlled-access and fenced or screened compound that contains relatively small storage spaces of varying sizes, having individual, compartmentalized and controlled access for the storage of excess personal property of an individual or family generally stored in residential accessory structures, when such building or group of buildings is not located on the lot of the residence.

Yard means a space on the same lot with a principal building, which is open and unoccupied other than by steps, walks, terraces, driveways, lampposts and similar structures, and unobstructed by structures, except as otherwise provided in this article.

Yard, corner side means a yard on a corner lot, the area of which is bounded by a line extending from the front of the principal building (the front building line) to a point intersecting the side street right-of-way line (side lot line), then along the side lot line to a point intersecting the line formed by extending the wall of the nearest principal building paralleling the side lot line.

Yard, front means a yard extending across the full width of the lot between two side lot lines, the depth of which is the least distance between the street right-of-way and the building line.

Yard, rear means a yard extending across the full width of the lot between the two side lot lines and between the rear line and a parallel line tangent to the rear of the principal building, the depth of which is the least distance between the rear lot line and the parallel line.

Yard, side means a yard extending between the front building line and the rear building line, the width of which is the least distance between the side lot line and the nearest part of the principal building.

Zoning authority means the Village Council.

DIVISION 4: ZONING DISTRICTS

Sec. 54-47 GENERAL DISTRICTS DEFINED; PERMITTED AND CONDITIONAL USES

- (a) General districts are the residential, commercial, and industrial zoning districts of the village. This division outlines the intended purpose of each general district and states the permitted uses and conditional uses for each district.
- (b) A permitted use is a use which is listed as permitted by right in a zoning district. Nonspecified uses which are similar to those specified are also permitted by right, except as otherwise restricted within this article.
- (c) A conditional use is a use which is of an unusual or unique character, and which may be offensive or incompatible in some cases within a zoning district. A conditional use requires review and approval by the planning commission to determine impacts of the use on the surrounding area. See [Section 54-61](#) for procedures governing a conditional use permit.

(Code 1985, § 10-4-1)

Sec. 54-48 ORGANIZATION OF ZONE REGULATIONS

- (a) Districts may be base zones or overlay zones. Base zones set out the use, intensity, and dimensional standards for properties within their boundaries. Base districts are grouped into three (3) types – Residential, Non-Residential, Special Use districts– and shall have the boundaries shown on the Official Zoning Map. Overlay zones are superimposed over portions of one or more underlying base zones with the intent of supplementing general development regulations with additional regulations that address special area-specific conditions or features while maintaining the character and purposes of the underlying base zones. Overlay zones include standards that may modify or supersede standards applied by the underlying base zone, though the uses allowed or prohibited in overlay zones are generally the same as the underlying base zone.

- (b) The regulations for each type of zone are organized as described below.

- (1) The purpose of each district

- (2) District Standards that are specific to each district

- (3) Reference to other applicable standards included in Chapter 54

Allowable uses in each district are in the Use Table, [Section 54-54](#). Some uses must meet specific standards. Specific Use standards are listed in [Section 54-55](#), and a link to applicable standards is provided in the Use Table.

Sec. 54-49 RESIDENTIAL DISTRICTS

(a) R-1 Single-Family Residential District

- (1) *Purpose; maximum density.* The purpose of the R-1 single-family residential district is to provide for the development, at a low density, of single-family detached dwellings and directly related complementary uses. The district is intended to be strictly residential in character with a minimum of disturbance due to traffic or overcrowding.

(2) Specific District Standards

- a. A maximum of one (1) principal dwelling structure shall be allowed per lot.
- b. A maximum of one (1) accessory dwelling shall be allowed per lot as a conditional use if it meets the if it meets the standards for accessory dwellings in [Section 54-55\(i\)\(1\)](#) and the standards for accessory structures in [Section 54-74](#).
- c. A maximum of one (1) accessory structure may be provided if it meets the standards for accessory structures, uses and equipment in [Section 54-74](#).
- d. Covered carport open on at least three sides. The open portion of a covered carport must be set back at least ten feet from the property line.
- e. Resubdivision. Resubdivision of previously subdivided or platted land shall be as provided herein. The provisions of this subsection shall apply to any land, regardless of size, identified as a lot, tract or similar term and described by lot or tract number or letter, block number or letter, street address or similar means.
 1. Reserved.
 2. The planning commission and village council shall consider the size of adjoining lots, the effects of the resubdivision on those adjoining lots, the availability of village utilities and the capacity to provide utility service to the newly created lots, and other pertinent factors in determining the actual sizes of the lots to be allowed. Adjoining lots shall include those lots separated from the subject lots by a street or alley.
 3. The provisions herein shall not apply to:
 - i. Tracts of land described only by metes and bounds;
 - ii. Those cases where all of the land in a previously platted subdivision is owned by a single person and an application for replat of the entire subdivision is submitted pursuant to subsection 54-284(d)(1).
 4. Nothing herein shall be construed to prevent the replatting of smaller lots into larger lots or otherwise replatting contiguous or adjacent lots where there is no increase in the number of lots after the replat as otherwise provided by this Code.

(3) Other Applicable Standards

Table 54.41.1: R-1 District Dimensional Standards

Table 54.41.2: Other Applicable Standards

Development Type	Single Family Residential
Lot Standards	
Lot area, min	7,500 square feet
Lot width, min.	75 feet
Lot depth, min.	100 feet
Setbacks	
Front setback, min.	15 feet
Side setback min.	10 feet
Corner side setback, min.	20 feet
Rear setback, min.	15 feet
Setback Exceptions:	
Schools and civic, cultural, and religious institutions, including accessory structures	50 feet, all sides
Schools and civic, cultural, and religious institutions, including accessory structures Setback consistency	50 feet, all sides See Note ¹
Height	
Height, max.	35 feet

Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

(b) R-2 Two-Family Residential District

- (4) *Purpose; maximum density.* The purpose of the R-2 two-family residential district is to provide for the development, at a low density, of single-family detached dwellings, two-family dwellings and directly related complementary uses. The zone is intended to be strictly residential in character with a minimum disturbance due to traffic or overcrowding.

¹ When more than 25 percent of the frontage on the side of a street between intersections is occupied by structures having setbacks from street rights-of-way of greater or lesser amounts than required in this section, the average setback of all existing buildings between the intersections shall be maintained by all new or relocated structures. If a building is to be built where there is an established average setback different from that required in this section and there are existing buildings on one side only, the front setback of the new building need be no greater than that of the next adjoining existing building. In a case where a building is to be built where there is such an established average setback and there are existing buildings on both sides of the new building, the front setback shall not be greater than that which would be established by connecting a straight line between the forwardmost portion of the first adjacent building on each side.

Residential densities may be limited to protect the natural character of the village. Such limitations must be approved by the planning commission.

(5) Specific District Standards

Covered carport open on at least three sides. The open portion of a covered carport can encroach up to 10 feet into the front yard setback. The structure must be set back at least ten feet from the property line.

(6) Other Applicable Standards

Table 54.41.2: R-2 District Dimensional Standards	
Development Type	Two Family Residential
Lot Standards	
Lot area, min	9,000 square feet (4,500 square feet per unit)
Lot width, min.	40 feet per unit
Lot depth, min.	100 feet
Setbacks	
Front setback, min.	15 feet
Side setback min.	10 feet
Corner side setback, min.	20 feet
Rear setback, min.	15 feet
Setback Exceptions:	
Schools and civic, cultural, and religious institutions, including accessory structures	50 feet, all sides
Setback consistency on block frontage	See Note ²
Encroachments	Provide link

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V

² When more than 25 percent of the frontage on the side of a street between intersections is occupied by structures having setbacks from street rights-of-way of greater or lesser amounts than required in this section, the average setback of all existing buildings between the intersections shall be maintained by all new or relocated structures. If a building is to be built where there is an established average setback different from that required in this section and there are existing buildings on one side only, the front setback of the new building need be no greater than that of the next adjoining existing building. In a case where a building is to be built where there is such an established average setback and there are existing buildings on both sides of the new building, the front setback shall not be greater than that which would be established by connecting a straight line between the forwardmost portion of the first adjacent building on each side.

Table 54.41.2: R-2 District Dimensional Standards	
Height	
Height, max.	35 feet

Table 54.41.2: Other Applicable Standards	
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

(c) R-3 Multiple-Family Residential District

(7) Purpose; maximum density. The purpose of the R-3 multiple-family residential district is to provide for high-density housing in multiple-family structures and directly related complementary uses. The R-3 district is designed to allow highly economical use of land while creating an attractive, functional, and safe residential environment. Residential densities may be limited to protect the natural character of the village. Such limitations must be approved by the planning commission.

(8) Specific District Standards

Multifamily dwellings (townhomes and apartments) cannot exceed six units or 135 linear feet, whichever is less.

f. Outdoor living area in the minimum amount specified in the Table 54.41.3 must be provided on any lot occupied by the multiple residence or townhouse building. This space must be easily accessible for daily recreational use by the occupants of the building. Driveways, parking areas, ornamental landscaped areas having a width of less than 20 feet, and required side or front yards shall not be considered as an outdoor living area, except in the case of interior townhouse units where the unit is less than 20 feet in width, in which case the minimum width of the outdoor living area shall be the width of the lot.

g. Lot area allowances. The minimum lot areas in this section may be adjusted according to the following, except that allowance shall not be made for two- or three-family dwellings

For each parking stall in or under the residence, or otherwise completely underground, subtract 400 square feet from the total minimum lot area.

5. For each unit with a balcony or patio of not less than 40 square feet, subtract 100 square feet from the outdoor living area.

h. Distance between buildings. When two or more principal buildings are located on one lot, the minimum separation between any two adjacent principal buildings shall be a distance of not less than an amount equal to the height of the taller of the two buildings or 20 feet, whichever is greater, when developed as a planned unit development. For major and minor site plans, building separation shall be the sum of two interior side yard setbacks.

i. Accessory buildings. Accessory buildings shall observe the same setback requirements established for the multiple-residence buildings, except that accessory buildings located within the rear yard of the multiple-residence building may be located within five feet of the rear or interior side property line. The council may require common walls for accessory buildings on the same lot where common walls will eliminate unsightly and hazardous areas. Accessory buildings on the same lot shall otherwise be separated by a distance of not less than ten feet.

j. Landscaping. Except for two-family lots and their adjacent rights-of-way, all areas not designated for buildings, circulation, parking or storage shall be landscaped in accordance with section 54-135. Landscaping of public parks shall be the responsibility of the village.

k. Encroachments into yards.

6. Open decks. Open decks shall be permitted to extend into the front, rear and side yard setback a distance of not more than five feet in the case of front yards and not

closer than five feet to the property line in the case of side yards and rear yards.

7. Covered patios, decks, porches or carports with a side wall. Covered patios, decks, porches or carports with side walls shall not be permitted encroachments on any setbacks.
8. Covered carport open on at least three sides. The open portion of a covered carport can encroach up to 10 feet into the front yard setback. The structure must be set back at least ten feet from the property line.
9. Roof projections into required side yards. A house or garage roof may not be constructed closer than two feet to a side property line.

(9) Other Applicable Standards

Table 54.41.4: R-3 District Dimensional Standards						Minimum Setbacks			
Use	Min Lot Area per Unit (Square Feet)*	Min Lot Width (Feet)	Min Lot Depth (Feet)	Outdoor Living Area (Square Feet per Dwelling Unit)	Building Height (feet)	Front	Interior Side	Corner Side	Rear
Single Family	7,500	75	100	Restricted by R-1 Setbacks	35	20	5	20	10
Two-Family	3,600	80	90	600	35	20	5	20	10
Three-family	3,000	80	90	500	35	20	5	20	10
Four-family	2,500	90	90	400	35	20	10	20	10
Townhouse/Condominium	2,000	90	90	400	35	20	10	20	10
Schools and civic, cultural, and religious institutions, includes their accessor structures	Minimum area and lot dimensions to be determined by building area, parking requirements and minimum setbacks.				35	50	50	50	50
Structures accessory to single-family residences					35	20	3	20	3
Other permitted uses					35	30	10	20	50

- See section (c)(2)c for exceptions.

Table 54.41.3: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72

Table 54.41.3: Other Applicable Standards	
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

(d) R-4 High-Density Residential District

(1) *Purpose; maximum density.* The purpose of the R-4 high-density residential district is to provide for high-density housing in multiple-family structures and directly related complementary uses. The R-4 district is designed to allow highly economical use of land while creating an attractive, functional, and safe residential environment. Residential densities may be limited to protect the natural character of the Village. Such limitations must be approved by the planning commission.

(2) Specific District Standards

Distance between buildings. When two or more principal buildings are located on one lot, the minimum separation between any two adjacent principal buildings shall be a distance of not less than an amount equal to the height of the taller of the two buildings or 20 feet, whichever is greater, when developed as a planned unit development. For major and minor site plans, building separation shall be the sum of two interior side yard setbacks.

I. Accessory buildings.

a. Accessory buildings shall observe the same setback requirements established for the multiple-residence buildings, except that accessory buildings located within the rear yard of the multiple-residence building may be located within three feet of the rear or interior side property line. The council may require common walls for accessory buildings on the same lot where common walls will eliminate unsightly and hazardous areas. Accessory buildings on the same lot shall otherwise be separated by a distance of not less than ten feet.

10. Exteriors of accessory buildings shall have an exterior finish compatible with the main structure. Compatibility shall be determined by the village based on type and use of building materials.

m. Screening. All principal and accessory uses shall be screened from adjacent residential districts (except R-4 districts) as described in section 54-134.

n. Landscaping. All areas not designated for buildings, circulation, parking or storage shall be landscaped in accordance with section 54-135. Landscaping of public parks shall be the responsibility of the village.

o. Encroachments into yards.

Open decks. Open decks shall be permitted to extend into the front, rear and side yard setback a distance of not more than five feet in the case of front yards and not closer than five feet to the property line in the case of side yards and rear yards.

11. Covered patios, decks, porches or carports. Covered patios, decks, porches or carports shall not be permitted encroachments on any setbacks.

12. Roof projections into required side yards. A house or garage roof may not be constructed closer than two feet to a side property line.

(3) Other Applicable standards

Table 54.41.4: R-4 District Dimensional Standards									
Use	Min Lot Area per Unit (Square Feet)*	Min Lot Width (Feet)	Min Lot Depth (Feet)	Outdoor Living Area (Square Feet per Dwelling Unit)	Maximum Building Height (feet)	Minimum Setbacks			
						Front	Interior Side	Corner Side	Rear
Apartment Buildings	?	90	90	300	35	20	10	20	20
Townhouse Cluster	?	90	90	400	35	20	15	20	20
Schools; civic, cultural, and religious institutions;	Minimum area and lot dimensions to be determined by parking requirements, outdoor living area, and minimum setbacks. Setbacks include related accessory structures.				35	50	50	50	50
Structures accessory to multifamily residences					35	20	3	20	3
Other permitted uses					35	30	10	20	50

- See section (c)(2)c for exceptions.

Table 54.41.4: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI

Table 54.41.4: Other Applicable Standards	
Wireless Telecommunications Facilities	Article VII

(e) AR-1 Agricultural/Residential District

- (4) *Purpose.* The purpose of the AR-1 district is to allow agricultural uses such as farming and ranching and single-family detached dwellings and related complementary uses. The district is intended to be rural in character.

(5) Specific District Standards

There shall be no development requirements for farming and ranching operations.

(6) Other applicable standards

Table 54.41.5: AR-1 District Dimensional Standards	
Development Type	Agricultural/Residential
Residential Lot Standards	
Lot area, min	2 acres
Lot width, min.	
Lot depth, min.	
Residential Setbacks	
Front setback, min.	20 feet
Side setback min.	20 feet
Corner side setback, min.	20 feet
Rear setback, min.	20 feet
Churches, schools and public buildings	
Lot area, min	1 acre
Setbacks	50 feet, all sides
Encroachments	No encroachments into yards permitted
Height	
Height, max.	35 feet

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

(f) M-1 Low-Density Mobile Home District

- (7) Purpose; maximum density. The purpose of the M-1 low-density mobile home district is to promote affordable housing and to make economical use of the land by allowing the development of mobile home subdivisions at gross residential densities of not more than five units per acre.

(8) Specific District Standards

Encroachments into yards.

Open steps and decks. Open steps and decks shall be permitted to extend into the front, rear and side yard setback a distance of not more than ten feet in the case of front yards and not closer than ten feet to the property line in the case of side yards.

13. Covered patios, decks, porches or carports. Covered patios, decks, porches or carports shall not be permitted encroachments in any setbacks, except as provided under section 54-140.

14. Roof projections into required side yards. A house or garage roof may not be constructed closer than two feet to a side property line.

- p. Landscaping. Except for mobile home and single-family lots and their adjacent rights-of-way, all areas not left in their natural state, or which have otherwise been disturbed by construction, and which are not designated for buildings, circulation, parking or storage, shall be landscaped in accordance with section 54-135. Landscaping of public parks shall be the responsibility of the village.

(9) Other applicable standards

Table 54.41.6: M-1 District Dimensional Standards	
Development Type	Mobile Home
Lot Standards	
Lot area, min	8,000 sf
Lot width, min.	60 feet
Lot depth, min.	100 feet
Setbacks ³	
Front setback, min.	20 feet
Side setback min.	10 feet
Corner side setback, min.	20 feet

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77

³ The setback and yard requirements listed in this section are subject to the following additional requirements for front setbacks: When more than 25 percent of the frontage on the side of a street between intersections is occupied by structures having setbacks from street rights-of-way of greater or lesser amounts than required in this section, the average setback of all existing buildings between the intersections shall be maintained by all new or relocated structures. If a building is to be built where there is an established average setback different from that required in this section, and there are existing buildings on one side only, the front setback of the new building need be no greater than that of the next adjoining existing building. In a case where a building is to be built where there is such an established average setback, and there are existing buildings on both sides of the new building, the front setback shall not be required to be greater than that which would be established by connecting a straight line between the forwardmost portion of the first adjacent building on each side.

Table 54.41.6: M-1 District Dimensional Standards	
Rear setback, min.	10 feet
Setback Exceptions	
Lot area, min	
Setbacks	
Schools and civic, cultural, and religious institutions	50 feet, all sides
Structures for all other principal, conditional or other uses	Minimum rear setback is 20 feet
Height	
Height, max.	35 feet

Table 54.41.2: Other Applicable Standards	
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

(g) M-2 Medium-Density Mobile Home District

- (10) Purpose; density. The purpose of the M-2 medium-density mobile home district is to promote affordable housing and to make economical use of the land by allowing the development of mobile home communities at gross residential densities of not more than ten units per acre.

(11) Specific District Standards

Encroachments into yards.

Covered patios, decks, porches or carports. Covered patios, decks, porches or carports shall not be permitted encroachments in any setbacks.

15. Roof projections into required side yards. A mobile home, single-family dwelling or garage roof may not be constructed closer than two feet to a side property line.

q. Landscaping.

The front setback area of each mobile home or single-family lot shall be landscaped or left in its natural state.

16. All private commonly owned recreation areas not devoted to buildings, structures, surfaced courts, sandboxes, etc., shall be landscaped and irrigated. Landscaping of public parks shall be the responsibility of the village.

- r. *Screening.* All principal and accessory uses shall be screened from adjacent residential zones (except M-2 districts) as described in section 54-134.

(12) Other Applicable Standards

Table 54.41.6: M-2 District Dimensional Standards	
Development Type	Mobile Home
Lot Standards	
Site area, min	5 acres
Lot area, min	5,000 sf
Lot width, min.	50 feet
Lot depth, min.	100 feet
Setbacks	
Front setback, min.	20 feet
Side setback min.	10 feet
Corner side setback, min.	10 feet
Rear setback, min.	10 feet
Setback Exceptions	
Setbacks	
Schools and civic, cultural, and religious institutions	50 feet, all sides

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Residential terrain management	Sec. 54-68
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84

Table 54.41.6: M-2 District Dimensional Standards	
Structures for all other principal, conditional or other uses	<div>Corner side 20 feet</div> <div>Rear 20 feet</div>
Height	
Height, max.	35 feet

Table 54.41.2: Other Applicable Standards	
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII

Sec. 54-50 NONRESIDENTIAL DISTRICTS

(a) C-1 Neighborhood Commercial District

(1) *Purpose.* The purpose of the C-1 neighborhood commercial district is to provide for establishment of local centers for convenient retail outlets which deal directly with the consumer for whom the goods or services are intended. These centers are located in predominately residential areas and are limited to a type of use compatible with the surrounding residential character of the area.

(2) Specific District Standards

- a. Access.
- b. (Access to commercial activities shall be allowed only from arterial or collector streets or a street specifically designed for such development, provided, the planning commission may grant a variance from this provision upon a showing of good cause, if said commercial activity is located on either U.S. Highway 70 or State Highway 48.
- c. Access points shall be located at least 150 feet from any street intersection.
- d. Access points on the same street shall not be spaced closer than 100 feet as measured from the centerlines. Commercial developments of a small scale shall be encouraged to develop common access drives and parking facilities.
- e. Commercial developments which may not be able to meet the requirements of subsections (e)(2) and (3) of this section and which are requesting deviations from such standards shall submit an engineer's report certified by a professional engineer addressing the following site conditions, both present and future:
 1. Traffic volumes.
 2. Turning movements.
 3. Traffic controls.
 4. Site design.
 5. Site distances.
 6. Location and alignment of other access points.

Based upon this data, the planning commission shall determine whether a deviation from the required standards is justified and, if so, what alternative requirements will be necessary.

(3) Other Applicable Standards

Table 54.50.8: C-1 District Dimensional Standards	
Development Type	Neighborhood Commercial
Lot Standards	
Lot area, min	No min.
Lot width, min.	100 feet
Lot depth, min.	No min.
Setbacks	
Front setback, min.	25 feet

Table 54.50.2: Other Applicable Standards	
Overlay zones/districts	Sec. 54-52
Commercial terrain management	Sec. 54-69
Forest management	Sec. 54-70
Screening	Sec. 54-71
Landscaping	Sec. 54-72
Use of certain areas and structures as dwelling unit prohibited	Sec. 54-73
Fences	Sec. 54-75

Table 54.50.8: C-1 District Dimensional Standards	
Side setback min.	10 feet
Corner side setback, min.	10 feet
Rear setback, min.	10 feet
Setback Exceptions	
Adjacent to residential districts	Residential district setbacks apply
Parking lot ⁴	
Front	4 feet
Interior side and rear	4 feet
Corner side	3 feet
Residential district boundary	3 feet
Height	
Height, max.	35 feet

Table 54.50.2: Other Applicable Standards	
Retaining Walls	Sec. 54-76
Setback and height encroachments, limitations, and exceptions	Sec. 54-77
Off-street parking facilities	Sec. 54-78
Off-street loading facilities	Sec. 54-79
Nonconforming uses and structures	Sec. 54-80
Miscellaneous performance requirements	Sec. 54-81
Noise abatement and emission control	Sec. 54-82
Lots not served by public water or sewer systems	Sec. 54-84
Architectural design standards	Sec. 54-86
Approved structures	Sec. 54-87
Urban-Wildland Interface Code	Sec. 54-88
Flood hazard regulations	Article IV
Airport hazard regulations	Article V
Wildfire Hazard Overlay District	Article VI
Wireless Telecommunications Facilities	Article VII
Signs	Division 8

⁴ Under certain conditions, the planning commission may reduce the required standard yard setbacks and parking requirements as set out in subsection (f)(1)a of this section and section 54-141. It must be shown that, because of shared parking facilities and/or shared access and drives, the standard requirements for yard setbacks and parking would not be necessary or in the best interest of the citizens of the village.

(b) C-2 Community Commercial District

(1) *Purpose.* The purpose of the C-2 community commercial district is to provide for low-intensity retail or service outlets which deal directly with the consumer for whom the goods or services are intended. The uses allowed in this district are to provide goods and services on a community market scale and should be located in areas which are served by arterial street facilities.

(2) Specific District Standards

- a. Merchandise which is offered for sale may be displayed beyond the confines of a building in any C-2 district, but the area occupied by such outdoor display shall not constitute a greater number of square feet than ten percent of the ground floor area of the building housing the principal use, unless such merchandise is a type customarily displayed outdoors such as automobiles and garden supplies.
- b. All materials, supplies, merchandise or other similar matter not on display for direct sale, rental or lease to the ultimate consumer or user shall be stored within the confines of a 100 percent opaque wall or fence not less than six feet tall. No storage of any type shall be permitted within the one-half of the required front or side street setback nearest the street, or within any required interior side or rear setback.
- c. Additional districts. There are created additional sub-districts within the C-2 district, identified as C-2a through C-2f, as may be designated on the official zoning map after notice and hearing, and which are subject to the C-2 provisions herein, provided that additions or exceptions to the C-2 provisions may be made by ordinance from time to time for specific sub-districts.

(3) Other Applicable Standards

Table 54.50.9: C-2 District Dimensional Standards	
Development Type	Community Commercial
Lot Standards	
Lot area, min	No min.
Lot width, min.	100 feet
Lot depth, min.	No min.
Setbacks	
Front setback, min.	20 feet
Side setback min.	10 feet
Corner side setback, min.	15 feet
Rear setback, min.	10 feet
Setback Exceptions	
Adjacent to residential districts	Residential district setbacks apply

Table 54.50.2: Other Applicable Standards	
Overlay zones/districts	Links
Non-residential terrain management	
Forest management	
Screening	
Landscaping	
Use of certain areas and structures as dwelling unit prohibited	
Fences	
Retaining Walls	
Setback and height encroachments, limitations, and exceptions	
Off-street parking facilities	
Off-street loading facilities	
Nonconforming uses and structures	
Miscellaneous performance requirements	

Table 54.50.9: C-2 District Dimensional Standards	
Parking lot ⁵	
Front	4 feet
Interior side and rear	4 feet
Corner side	3 feet
Residential district boundary	3 feet
Height	
Height, max.	35 feet

Table 54.50.2: Other Applicable Standards	
Noise abatement and emission control	
Lots not served by public water or sewer systems	
Architectural design standards	
Approved structures	
Urban-Wildland Interface Code	
Flood hazard regulations	
Airport hazard regulations	
Wildfire Hazard Overlay District	
Wireless Telecommunications Facilities	
Signs	

⁵ Under certain conditions, the planning commission may reduce the required standard yard setbacks and parking requirements as set out in subsection (f)(1)a of this section and section 54-141. It must be shown that, because of shared parking facilities and/or shared access and drives, the standard requirements for yard setbacks and parking would not be necessary or in the best interest of the citizens of the village.

(c) C-3 Midtown Commercial District

(1) *Purpose.* The purpose of the C-3 midtown commercial district is to allow the development of commercial retail and service establishments with carefully integrated multiple-family residential, entertainment and public parking facilities in the "Midtown" area of the village. The district encourages development to take place in an intensive fashion to facilitate pedestrian circulation and to maximize the use of valuable locations and existing infrastructure and building stock.

(2) Specific District Standards

- a. Merchandise which is offered for sale in the C-3 district may be displayed as follows:
- b. Merchandise may be displayed within the building footprint which includes the area up to and including the edge of the roof overhang.
- c. No display shall occur outside the area of the building footprint (outdoor sales) except as authorized below.
- d. The planning commission may grant a conditional use to authorize outdoor display of merchandise due to a unique configuration of the property or the type of merchandise offered for sale. Application, review and approval shall follow the conditional use procedures set forth in this chapter.
- e. Outdoor sales may be conducted as part of a special event sanctioned by the Midtown Merchants Association.
- f. A merchant may conduct an individual outdoor sales event twice a year as follows:
- g. Each event shall be limited to three consecutive days in duration.
- h. Only items of normal inventory of the business may be sold or displayed outdoors during the event.
- i. Merchandise shall not be displayed within any public right-of-way, impede vehicular or pedestrian traffic or obstruct any clear sight triangle required by this chapter.
- j. An outdoor sales special use permit shall be obtained from the planning department prior to each event. The planning department may require submittal of a site plan and event schedule with the application. The planning department may ask for comments by other village departments prior to issuing the special use permit and may impose restrictions on the event when issuing the permit.

(3) Other Applicable Standards

Table 54.50.10: C-3 District Dimensional Standards	
Development Type	Midtown Commercial
Lot Standards	
Lot area, min	No min.
Lot width, min.	25 feet
Lot depth, min.	No min.
Setbacks	

Table 54.50.2: Other Applicable Standards	
Overlay zones/districts	Links
Non-residential terrain management	
Forest management	
Screening	
Landscaping	
Use of certain areas and structures as dwelling unit prohibited	

Table 54.50.10: C-3 District Dimensional Standards	
Front setback, min.	No min.
Side setback min.	No min.
Corner side setback, min.	No min.
Rear setback, min.	No min.
Setback Exceptions	
Adjacent to residential districts	Residential district setbacks apply
Multifamily structures Interior side and rear setbacks	Same as in the R-4 district
Parking lot ⁶	
Front	4 feet
Interior side and rear	4 feet
Corner side	3 feet
Residential district boundary	3 feet
Height	
Height, max.	35 feet

Table 54.50.2: Other Applicable Standards	
Fences	
Retaining Walls	
Setback and height encroachments, limitations, and exceptions	
Off-street parking facilities	
Off-street loading facilities	
Nonconforming uses and structures	
Miscellaneous performance requirements	
Noise abatement and emission control	
Lots not served by public water or sewer systems	
Architectural design standards	
Approved structures	
Urban-Wildland Interface Code	
Flood hazard regulations	
Airport hazard regulations	
Wildfire Hazard Overlay District	
Wireless Telecommunications Facilities	
Signs	

⁶ Under certain conditions, the planning commission may reduce the required standard yard setbacks and parking requirements as set out in subsection (f)(1)a of this section and section 54-141. It must be shown that, because of shared parking facilities and/or shared access and drives, the standard requirements for yard setbacks and parking would not be necessary or in the best interest of the citizens of the village.

(d) C-4 Heavy Commercial District

(1) Purpose. The purpose of the C-4 heavy commercial district is to provide for construction-oriented businesses and service operations that are necessary to complement the economy of the village and in a manner consistent with the resort character of the village. Uses allowed in this district shall be located in areas which are served by arterial street facilities. There are no restrictions on outdoor sales or storage of materials, supplies, merchandise or other similar matter in this zone.

(2) Specific District Standards

a. Access.

b. Access for uses in the C-4 heavy commercial district shall be allowed only from arterial or commercial collector streets.

c. Access points on arterial streets shall, whenever possible, be located at least 150 feet from any street intersection.

(3) Other Applicable Standards

Table 54.50.11: C-4 District Dimensional Standards	
Development Type	Heavy Commercial
Lot Standards	
Lot area, min	No min.
Lot width, min.	100 feet
Lot depth, min.	No min.
Setbacks	
Front setback, min.	20 feet
Side setback min.	15 feet
Corner side setback, min.	15 feet
Rear setback, min.	15 feet
Setback Exceptions	
Adjacent to residential districts	Residential district setbacks apply
Parking lot ⁷	
Front	4 feet
Interior side and rear	4 feet
Corner side	3 feet
Height	

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Links
Non-residential terrain management	
Forest management	
Screening	
Landscaping	
Use of certain areas and structures as dwelling unit prohibited	
Fences	
Retaining Walls	
Setback and height encroachments, limitations, and exceptions	
Off-street parking facilities	
Off-street loading facilities	
Nonconforming uses and structures	
Miscellaneous performance requirements	
Noise abatement and emission control	
Lots not served by public water or sewer systems	
Architectural design standards	
Approved structures	
Urban-Wildland Interface Code	
Flood hazard regulations	

⁷ Under certain conditions, the planning commission may reduce the required standard yard setbacks and parking requirements as set out in subsection (f)(1)a of this section and section 54-141. It must be shown that, because of shared parking facilities and/or shared access and drives, the standard requirements for yard setbacks and parking would not be necessary or in the best interest of the citizens of the village.

Table 54.50.11: C-4 District Dimensional Standards	
Height, max.	35 feet

Table 54.41.2: Other Applicable Standards	
Airport hazard regulations	
Wildfire Hazard Overlay District	
Wireless Telecommunications Facilities	
Signs	

(e) I-1 Industrial District

- (4) Purpose. The purpose of the I-1 industrial district is to provide for the development of storage, warehousing, industrial and office facilities that are necessary to complement the economy of the village in a manner which is not detrimental to the overall resort character of the village and does not cause adverse off-site environmental impacts. Uses allowed in the I-1 district are those whose activities, including storage, take place entirely within enclosed buildings or areas not visible off-site, which have little or no emission of noise, smoke, dust, odor, vibration or glare, and which pose little or no danger to the public health and safety.

(5) Specific District Standards

None

(6) Other Applicable Standards

Table 54.41.12. I-1 District Dimensional Standards	
Development Type	Industrial
Lot Standards	
Lot area, min	No min.
Lot width, min.	100 feet
Lot depth, min.	No min.
Setbacks	
Front setback, min.	35 feet
Side setback min.	15 feet
Corner side setback, min.	30 feet
Rear setback, min.	15 feet
Setback Exceptions	
Adjacent to residential districts	60 feet
Parking lot ⁸	
Front	4 feet
Interior side and rear	4 feet
Corner side	3 feet
Residential district boundary	3 feet
Height	
Height, max.	55 feet ⁹

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Links
Non-residential terrain management	
Forest management	
Screening	
Landscaping	
Use of certain areas and structures as dwelling unit prohibited	
Fences	
Retaining Walls	
Setback and height encroachments, limitations, and exceptions	
Off-street parking facilities	
Off-street loading facilities	
Nonconforming uses and structures	
Miscellaneous performance requirements	
Noise abatement and emission control	
Lots not served by public water or sewer systems	
Architectural design standards	
Approved structures	
Urban-Wildland Interface Code	
Flood hazard regulations	

⁸ Under certain conditions, the planning commission may reduce the required standard yard setbacks and parking requirements as set out in subsection (f)(1)a of this section and section 54-141. It must be shown that, because of shared parking facilities and/or shared access and drives, the standard requirements for yard setbacks and parking would not be necessary or in the best interest of the citizens of the village.

⁹ Buildings over 35 feet in height must be approved by the fire chief and the planning commission and shall be

Table 54.41.12. I-1 District Dimensional Standards

Table 54.41.2: Other Applicable Standards	
Airport hazard regulations	
Wildfire Hazard Overlay District	
Wireless Telecommunications Facilities	
Signs	

subject to additional fire protection precautions as determined by the fire chief.

Sec. 54-51 SPECIAL DISTRICTS

(f) Planned Unit Development Districts

(7) Purpose. The purpose and intent of planned unit development is to:

Produce more appropriate development than would result from the strict application of this article.

- d. Permit design flexibility that will encourage a more creative approach to the development of land and that will result in more efficient and aesthetically desirable alternatives to the housing needs of the community.
- e. Locate housing, recreation, shops, offices and industrial uses conveniently to each other for the benefit of the entire community.
- f. Permit flexibility of land use, placement of buildings, arrangement of open space, circulation facilities and off-street parking areas, and to maximize the potentials of individual sites under development.
- g. Promote the infill of vacant land within established village limits.
- h. Accomplish more aesthetic and desirable developments which can best utilize and protect special features of the geography, topography, size and shape of particular pieces of property and provide a compatible and stable environment in harmony with the surrounding area.

(8) Planned Unit Development Types

R-PUD Residential Planned Unit Development. Residential planned unit developments (R-PUD). Residential planned unit developments shall allow the principal permitted uses in the R-1, R-2, R-3, R-4 and C-1 zoning districts and shall contain at least 70 percent residential uses.

C-PUD Commercial Planned Unit Development. A commercial planned unit development shall allow the principal permitted uses in the C-1, C-2 and C-3 districts plus any type of residential use in the R-1, R-2, R-3 and R-4 districts. Residential use shall in no event exceed 50 percent of the total planned unit development area.

- i. **M-PUD Mixed-use Planned Unit Development.** A mixed use planned unit development shall permit any combination of land uses integrally developed under one concept and shall be permitted in any zoning district or combination of zoning districts. The use mix shall be approved by the planning commission as conforming to the comprehensive plan of the village.
- j. **I-PUD Industrial Planned Unit Development.** An industrial planned unit development shall include principal permitted uses in the I-1 and C-4 districts only, and may include conditional uses in the I-1 and C-4 districts on approval by the planning commission. No residential uses are permitted, and there is no open space requirement.

(9) Specific District Standards

The planned unit development shall consist of a harmonious selection of uses and groupings of buildings, parking areas, circulation and open spaces, and shall be designed as an integrated unit in such a manner as to constitute a safe, efficient and convenient community that complements the resort character of the village. The planned unit development may include one or more principal uses or structures on a single parcel of ground or contiguous parcels.

- k. Requirements and standards. All residential, commercial and industrial planned unit developments shall meet the minimum requirements of this section. In addition, the planning commission may require compliance with such other design standards relating to the construction, placement of buildings, landscaping, streets, pathways, drainageways and other site design features as it may deem necessary.

Ownership. The tract shall be a development of land under unified control at the time of application. It shall be planned and scheduled to be developed as a whole, though development may be phased in accordance with this section. No authorization or permits shall be granted unless the applicant has acquired actual ownership of, or executed a binding sales contract for, all of the property comprising such tract. The term "single ownership," as used in this section, shall include individuals who by legal agreement have joined to develop the property.

17. Conformance with comprehensive plan. The proposed planned unit development shall be consistent with the comprehensive plan of the village.

18. Minimum total area. The minimum total area of a planned unit development shall be no less than five acres unless the applicant shows that waiving the minimum area requirements would be in the public interest and that one or both of the following conditions exist:

Unusual physical features of the property itself or the surrounding area are such that standard development provisions are not appropriate to provide for conservation of terrain or physical features important to the neighborhood or community.

- (g) The property is adjacent to or across the street from property which has been developed under the provisions of this section and will contribute to the amenities of the neighborhood.

19. All applications for planned unit development approval shall designate the type of use mix for which application is made. Properties designated as planned unit developments in the zoning district map adopted June 28, 1988, may allow any planned unit development use mix designation except industrial planned unit development until approved by the planning commission in accord with section 54-69. No development shall be commenced until the planned unit development use mix is designated and approved by the planning commission.

20. Density. The number of dwelling units per acre allowable within a planned unit development shall be determined by the planning commission; however, in no event shall the number of dwelling units per acre exceed the maximum established by the following schedule, calculated based only upon the areas indicated for residential use:

Designated Use	Dwelling Units/Acre
R-1	6
R-2	10
R-3	18
R-4	25

If the unit density is not consistent with the policies of the Comprehensive Plan, the applicant has the burden to show that such increase in density will not have an undue and adverse impact on existing public facilities, neighborhood properties or the natural environment.

(h) In determining the reasonableness of the increase in unit density, the planning commission and the council shall consider increased efficiency in public facilities and services, based in part upon:

- (i) The location, amount and proposed use of common open space.
- (ii) The location, design and type of dwelling units.
- (iii) The physical characteristics of the site.
- (iv) Particular distinctiveness and excellence in siting, design and landscaping.

- 21. *Building setbacks generally.*** Residential building setbacks from all property lines which form the perimeter of the planned unit development shall be no less than 20 feet. Commercial building setbacks shall be no less than 35 feet or the height of the building, whichever is greater.
- 22. *Placement of more than one building on lot; compliance with subdivision regulations.*** More than one building may be placed on one platted or recorded lot in any planned unit development. Areas for single-family detached dwellings or other housing types providing privately owned lots must comply with the village's subdivision code (article III of this chapter) in all respects not specifically noted in this section as appropriate variances or waivers.
- 23. *Developments involving only one housing type.*** A planned unit development which only involves one housing type, such as all detached or all attached units, shall not be considered inconsistent with the stated purposes and objectives of this section, and this shall not be the sole basis for denial or approval.
- 24. *Architectural style and appearance of buildings.*** The architectural style of buildings shall not solely be a basis for denial or approval of a plan. However, overall appearance and compatibility of individual buildings with other site elements and with surrounding development will be primary considerations in the review stages of the planning commission and the council.
- 25. *Issuance of building permits.*** No building permits shall be granted for any building on land for which an application for a planned unit development is in the process of village review or which does not conform to an approved planned unit development.

26. Staging of development.

Any part of a plan for a planned unit development proposed to be constructed in stages shall include full details relating thereto, and the council may approve or modify where necessary any such proposals.

- (i) The staging shall include the time for beginning and completion of each stage. Such timing may be modified by the village on the showing of good cause by the developer.
- (j) The landowner or developer shall make such easements, covenants and other arrangements and shall furnish such financial guarantees as may be determined by the village to be reasonably required to ensure performance in accordance with the plan and to protect the public.

27. Streets, utilities, services and public facilities. The uniqueness of each proposal for a planned unit development may allow specifications and standards for streets, utilities and services to be subject to minor modifications of the specifications and standards established in this chapter and other village codes governing their construction. The village may, therefore, waive or modify the specifications or standards where it is found that they are not required in the interests of the residents of the planned unit development or the village. The plans and profiles of all streets, utilities and services shall be reviewed, modified, if necessary, and approved by the village prior to the final approval of the planned unit development. All planned unit developments shall be served by public or community water and sewer systems.

28. Open space. At least seven percent of the total area of the planned unit development shall be set aside for public and/or private open space and recreational use. The village shall determine what portion of the seven percent shall be private and what shall be public.

29. Operation and maintenance of common facilities. If certain land areas or structures are provided within the planned unit development for private recreational use or as service facilities, the owner of such land and buildings shall enter into an agreement with the village to ensure a continued standard of maintenance. These common areas shall be placed under the ownership of one of the following, depending on which is more appropriate:

Dedicated to the public where a community-wide use would be anticipated.

(k) Landlord control.

(l) Landowners' association, provided all of the following conditions are met:

1. The landowners' association must be established prior to any sale.
2. Membership must be mandatory for each owner and any successive buyer.
3. The open space restrictions must be permanent, not for a given period of years.
4. The association must be responsible for liability insurance and the maintenance of recreational, service and other facilities as deemed

necessary by the village.

5. Landowners must pay their pro rata share of the cost, and the assessment levied by the association can become a lien on the property in accordance with state statutes.
6. The association must be able to adjust the assessment to meet changing needs.

30. Landscaping. Landscaping and/or fencing shall be provided according to a plan approved by the village and shall include a detailed planting list with sizes indicated.

31. Underground installation of utilities. All utilities, including electricity and telephone service, shall be installed underground.

(10) Other Applicable Standards

Table 54.41.2: Other Applicable Standards	
Overlay zones/districts	Links
Non-residential terrain management	
Forest management	
Screening	
Landscaping	
Use of certain areas and structures as dwelling unit prohibited	
Fences	
Retaining Walls	
Setback and height encroachments, limitations, and exceptions	
Off-street parking facilities	
Off-street loading facilities	
Nonconforming uses and structures	
Miscellaneous performance requirements	
Noise abatement and emission control	
Lots not served by public water or sewer systems	
Architectural design standards	
Approved structures	
Urban-Wildland Interface Code	
Flood hazard regulations	
Airport hazard regulations	
Wildfire Hazard Overlay District	
Wireless Telecommunications Facilities	
Signs	

Sec. 54-52 OVERLAY ZONES

Short-Term Residential Rental Overlay Zone

- (11) Purpose of zone. The Governing Body of the Village of Ruidoso finds and declares as follows:

Short-term residential rentals provide a community benefit by expanding the number and type of lodging facilities available to seasonal visitors.

- l. Short-term residential rentals are not commercial but are strictly a residential use of the property under the Village of Ruidoso Municipal Code.
- m. The provisions of this section are necessary to prevent a burden on village services and impacts on residential neighborhoods posed by short-term residential rentals.

- (12) Applicability of requirements. This overlay zone applies to all non-commercial residential property within the village regardless of the zoning district. These requirements of section 54-106 shall apply to dwelling units that are rented at some time during the year for a short duration that are not part of a commercial business enterprise such as a hotel, motel or commercial cabin rental located on a single lot or a group of contiguous lots within a commercial zoning district. These requirements do apply to individual dwelling units on non-contiguous property owned and operated by a hotel, motel or commercial cabin rental owner.

- (13) Definitions. For purposes of this section, the following words and phrases shall have the meaning respectively ascribed to them by this subsection:

Local contact person means an owner, representative of the owner or local property manager who lives in the Village of Ruidoso or within proximity of the village limits such that he/she is available to respond within an hour or less to tenant and neighborhood questions or concerns and is authorized to respond to any violation of this section and take remedial action.

- n. Managing agency or agent means a person, firm or agency licensed with the New Mexico Real Estate Commission representing the owner of the residential rental, or a person, firm or agency owning the residential unit.
- o. Operator means the person who is proprietor of a residential rental, whether in the capacity of owner, lessee, sub-lessee, or mortgagee in possession.
- p. Owner means as defined in section 1-2 of this Code.
- q. Remuneration means compensation, money, rent, or other consideration given in return for occupancy, possession or use of real property.
- r. Rent means the consideration charged, whether or not received, for the occupancy of space in a residential rental, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature, without any deductions therefrom whatsoever.
- s. Short-term residential rental means a dwelling unit or one bedroom within a dwelling unit, including either a single-family detached or multiple-family attached unit, rented for the purpose of overnight lodging for a period of not less than one night nor more than 29

consecutive days to the same person or persons.

- t. Sleeping unit as defined by the International Building Code, 2015, and as amended, means a room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
- u. Third-party internet listing service means an internet-based (or online) marketplace that connects owners of short-term residential rentals to potential renters by way of a website and in exchange for a service fee. Third-party listing agent shall not mean local contact person or managing agency or agent as defined in this chapter.

- (14) Short-term residential rental permit required. No owner of a residential dwelling unit shall rent the unit for a short term without having a current valid short-term residential rental permit issued by the Village of Ruidoso. Short-term residential rental permits are issued to the owner for a period of one year and are non-refundable.

Nothing contained within this section shall be construed to abridge the ability of bona fide neighborhood covenants and/or deed restrictions to be more restrictive than the regulations within this section. Such covenants and deed restrictions shall not be enforceable by the Village, but remain the responsibility of property owners to ensure compliance within the applicable neighborhood.

- (15) Application for short-term residential rental permit. The dwelling unit owner or managing agency shall apply to the village for a short-term residential rental permit and supply, at a minimum, the following information:

The maximum number of occupants and vehicles that the dwelling unit can accommodate.

The parking calculation shall be based upon a minimum of one off-street parking space provided per sleeping unit. Properties offering a single-room rental must also meet parking requirements as set forth in section 54-141 {e} (1) a.

32. The occupancy per sleeping unit shall be determined by the floor area of each sleeping unit, number of restrooms per dwelling unit, infrastructure suitable to service the occupants and shall be in accord with habitable and occupancy codes contained within the duly adopted Code or successor as required per section 22-31(a).

- v. The name, address, email address and contact telephone numbers (including 24-hour emergency contact number) of the owner of the residential rental for which the permit is to be issued.
- w. The name, address, email address and contact telephone numbers (including 24-hour emergency contact number) of the agent, representative or local contact person for the owner of the residential rental.
- x. An application fee of \$50.00 per year.
- y. Compliance inspections are required on all short-term permits. The inspections are valid for biennial (every two years), and the fee is \$40.00.

After a permit is issued the compliance inspections will be conducted by Village of

Ruidoso staff no later than 30 days.

If the property is not in conformance with the compliance requirements at the time of the inspection, a correction notice will be issued, and a reinspection fee may be assessed of \$40.00 if the inspector is required to return.

The compliance inspection shall meet the following requirements:

An ABC type fire extinguisher(s) to be mounted at points of egress, with at least one provided per floor and minimum one per dwelling unit with at least two per dwelling unit if greater than 1,000 square feet, at a height not to exceed 48 inches. Extinguishers must be inspected and maintained according to state requirements and must properly display the inspection history of the device.

33. Approved (and working) smoke alarms installed as per manufacturer's instructions in every sleeping room, in compliance as required per section 22-31(a) of this Code and on every level of the home, including the basement.

34. Every sleeping room and living area with access to a primary means of escape shall provide a clear, unobstructed path of travel to the outside.

35. Where approved, an open fire permit in accordance with section 42-42 of the Village of Ruidoso Code of Ordinances shall be posted at, or immediately adjacent to the primary entrance to the building. Outdoor cooking appliances shall be properly maintained and notification visibly posted for their permitted use in accordance with section 42-42. Indoor fireplaces shall be properly maintained and inspected by a qualified person as necessary.

36. Authority for code compliance inspection. By submitting application, the owner authorizes the Ruidoso Fire Department, the village code enforcement officer or other designated village employee or representative to conduct a code compliance inspection of the residence at intervals deemed appropriate by the village, or if deemed necessary when it is alleged or suspected that a violation of this section may exist or have occurred.

z. Owner/agent authorization.

aa. Business registrations and taxes.

Business registrations are \$35.00 and are required for anyone conducting business within the Village of Ruidoso.

If an owner rents, lists, or books their property with a managing agency, a business registration is not required.

If a property owner rents, lists, or books their property without a managing agency, a business registration is required.

bb. Notification to adjacent property owners shall be required for all short-term rental permits.

The notification fee is \$25.00. The staff of the Village of Ruidoso will notify all property

owners within 200 feet of the permitted property notifying the intent to use their home as a short-term rental, and the name and number of the local contact person.

Managing agent may opt out to perform this task by certifying compliance with the notifications. If the managing agent opts out to perform this task, the \$25.00 fee will not be charged.

cc. The owner or managing agent/agency shall attest that they have met these requirements in each property registered as part of the initial rental registration and each successive renewal registration. The form utilized to attest to these requirements shall be part of the registration form provided by the village and be authenticated by a notary public.

(16) Application renewal or update. Prior to the expiration of the permit or when there is a change to the information contained in the permit regarding ownership, changes in the structure or parking area, or contact person, a new permit application shall be submitted. A transfer fee of \$10.00 shall be assessed.

(17) Fees. Fees are set forth in appendix A to this Code. The initial application fee sufficient to cover the cost of processing the application, reviewing the information submitted, and issuing a revised permit.

(18) Review of application and issuance of permit.

The village shall complete review of the initial permit application within ten business days. Renewals notifications of all permits shall occur 30 days prior to renewal. Such permits that are active at the time of this ordinance adoption shall not need to be prorated if extending their expiration to coincide with the new renewal date.

dd. Once the application review is complete, the village shall notify the applicant of the decision of whether or not to issue the permit based on compliance with this section. If approval is granted, the village will issue a short-term residential rental permit specifying the maximum number of cars and the maximum number of occupants allowed. Failure to renew the permit within 30 days after the applicable first day of August shall subject the owner to payment of a late permit renewal penalty fee.

ee. An application for permit or renewal application shall be denied if:

All applicable fees and taxes have not been paid, including lodgers' taxes as provided under chapter 78, article II of the Village of Ruidoso Code of Ordinances; or

37. Outstanding property nuisance or building code violations exist on the property; or

38. The applicant has not met the fuels management certification requirements of section 42-80, or as amended, of the Village of Ruidoso Code of Ordinances; or

39. The owner of the property is not compliant with subsection (h)(6) herein and has exceeded the number of adjudicated citations afforded under that subsection.

ff. The Village of Ruidoso recommends all property owners to purchase short-term rental insurance.

gg. Failure to comply with any provision of chapter 78 of the Village of Ruidoso Code of Ordinances may result in a revocation of the permit for a 12-month time period at the

discretion of the planning director.

hh. If the dwelling unit owner plans to discontinue short-term residential rental of the property, a statement to that effect shall be filed with the village and the permit will be revoked.

(19) Tenant notification requirements. Each short-term residential rental unit shall have a clearly visible and legible notice posted by the owner or managing agency or agent within the unit on or adjacent to the interior of the front door containing the following information:

A copy of the short-term residential rental permit.

ii. The name of the managing agency, agent, property manager, local contact person or owner of the unit, and a telephone number at which that party can be reached on a 24-hour, seven days a week basis.

jj. The maximum number of occupants three years of age and older permitted to stay in the unit.

kk. The maximum number of vehicles allowed to be parked on the property.

ll. The number of on-site parking spaces and the parking rules for seasonal snow removal (if applicable).

mm. The specific procedures regarding the disposal of trash and refuse.

nn. A notification that an occupant may be cited and fined for creating a disturbance and/or for violating other provisions of the Village of Ruidoso Municipal Code.

oo. Notice that noise provisions contained in the Village of Ruidoso Municipal Code section 38-31 will be enforced.

pp. Notification that the Village of Ruidoso Municipal Code prohibits ground fires, camp fires, fire rings and fire pits other than by permit.

qq. The 911 address for the property.

rr. Notice that animal leash laws contained in section 14-8 (prohibited acts; animal nuisances; vicious or dangerous animals) will be enforced.

ss. Notification that the Village of Ruidoso Municipal Code section 42-40 makes it "unlawful for any person to discard a lit cigarette, cigar, match or other type of incendiary material."

(20) Exterior advertising or signage. Exterior signage on short-term rental units which indicate availability, phone numbers or other type of information is prohibited. For the purposes of this section, signage shall only be permitted if it includes the name of the dwelling unit or owner's name and does not include advertisement of the property.

(21) Penalties for violation of requirements of this section. In addition to any other penalties or fines authorized by the Village of Ruidoso Municipal Code, the owner of a short-term residential rental unit shall be required to pay a penalty as set forth in appendix A to this Code in order to obtain, retain or renew a short-term residential rental permit.

Each day that an owner rents a unit for a short term without first obtaining a short-term residential rental permit is considered a separate violation of the Village of Ruidoso Municipal Code as provided for in section 1-6.

- tt. The village code enforcement officer or other designated village employee or representative shall take action to correct the violation as provided for in this Code or state statute.
- uu. The first suspected or observed violation of this section by the village may result in an initial warning notice requesting registration of the unregistered short-term residential rental unit in accordance with the provisions of this code without subject to penalty. Should the property owner fail to comply after receiving such initial notice from the village, penalties may be assessed as provide elsewhere in this Code in section 1-6, including the assessment of a registration fee twice the listed amount.

(Ord. No. 2009-06, 3-10-09; Ord. No. 2017-06 , § 1, 5-9-17; Ord. No. 2019-01 , 1-8-19; Ord. No. 2019-03 , 3-12-19)

DIVISION 5: USE REGULATIONS

Sec. 54-53 GENERAL PROVISIONS

Table 54.54.1 identifies the uses allowed as a principal use in each district. Some of the listed uses have use specific standards that further define how uses can be conducted. If use specific standards are in place, they are indicated in the ‘supplemental use standards’ column and a link is provided to the specific standards for that use.

- (m) Accessory Uses identify uses commonly allowed as secondary to principal use, some of which have applicable use specific standards.
- (n) Temporary Uses identify uses allowed on a temporary basis. Applicable use specific standards are identified in the ‘supplemental use standards’ column.
- (o) If a particular use or structure is not specifically listed in Table 54.54.1, the Community Development Department has the authority to interpret the intent of the Zoning Ordinance and to treat the unlisted use or structure in the same manner as a similar use or structure listed in Table 54.54.1. If no similar use or structure is listed for a district, the presumption shall be that the unlisted use or structure is prohibited.

Sec. 54-54 USE TABLE

Purpose. The purpose of this section is to authorize the establishment and continuation of land uses allowed as the principal uses, accessory and/or temporary uses of a lot. Table 54.53.1 lists the uses allowed in all districts.

(a) Table Abbreviations. the following abbreviations to designate whether and how a principal use is allowed within a zone:

- (1) P: A “P” (Permissive) indicates the use is permitted by right within the respective district. Permitted uses are subject to all other applicable regulations of this Ordinance, including the supplemental use standards in this section and the requirements of Section 10-4, Development Standards.
- (2) C: A “C” (Conditional) indicates the land use is allowed within that district upon approval of a Conditional Use Permit and upon compliance with any Use-specific standards and with all other applicable requirements of this Ordinance.
- (3) A: An “A” (Accessory) indicates the use is Accessory (i.e. allowed as an accessory use compatible with a Permissive or Conditional use on the lot) and is subject to any applicable Use specific Standards.
- (4) T: A “T” (Temporary) indicates a use that is allowed within that district for a limited time upon approval of a Temporary Use Permit and upon compliance with any Use-specific standards and with all other applicable requirements of this Ordinance.
- (5) A blank cell indicates the use is prohibited within the respective district.

Table 54.53.1 Allowable Uses																
P = Permitted Use T = Temporary Use C = Conditional Use A = Accessory Use Blank means use is not allowed in the district																
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD	Use Standards
Agricultural Uses																
Farm and ranch					P											
Plant nursery					P											
Private stables	C				P											
Cannabis producer					P						P	P				Sec. 54-55(a)(1)
Cannabis producer microbusiness					P							P				Sec. 54-55(a)(2)
Residential Uses																
Single family dwellings	P	P			P	P	P	C					P	P		Sec. 54-55(b)(1)
Two-family dwelling	C	P	P					C					P	P		Sec. 54-55(b)(2)
Caretaker quarters								C	C	C	C	C			C	Sec. 54-44(b)(3)
Multi-family dwellings		C	P	P	P	C	C	P	P	C	P		P	P		Sec. 54-55(b)(4)
Mobile home						P	P									Sec. 54-55(5)
Group home			C	C				C	C							Sec. 54-44(6)
Nursing home								C	C							Sec. 54-55(7)
Hospitality/Lodging																
Hotel/motel								P	P	C	C	C		P		Sec. 54-55(c)(1)

Table 54.53.1 Allowable Uses

P = Permitted Use T = Temporary Use C = Conditional Use A = Accessory Use Blank means use is not allowed in the district																
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD	Use Standards
Cabin rentals, less than five units								C	C	C	C	C		C		
Cabin rentals, 5+ units								P	P	C	C	C		P		
Overnight campground									C		C	C				Sec. 55-54(c)(2)
Recreational vehicle park									C		C					Sec. 55-54(c)(3)
Food and Beverage																
Restaurant								P	P	P	C	P		P		XXX
Convenience food restaurant									C	C		P				XXX
Brewery/Winery/Distillery								P	P	P	C	C		P	P	XXX
Bar or nightclub									P	P	C	C		P		XXX
Commercial Uses																
Light vehicle washing establishment									C		P	P			P	XXX
Automobile fuel sales									C		P	P		P		XXX
Automobile, boat or RV sales, rental, service and repair									C			P		P	P	XXX
Adult or Child Care Facility	C	C	C	C		C	C	P	P	C	P		C	P		XXX
Convenience food store								P		P	C			P	P	
Retail, general								P	P	P	C	C		P	P	XXX
Cannabis retailer								P	P	P	C	C			P	XXX
Cannabis testing laboratory								P	P		P	P				XXX
Cannabis research laboratory								P	P		P	P				XXX
Cannabis courier								P	P	P	P			P	P	XXX
On-site cannabis consumption premises								P	P	P	C					XXX
Tobacco sales								P	P	P	C	C		P	P	XXX
Liquor for consumption off site									P	P	C				C	XXX
Shopping center								P	P		P	C				
Office								P	P	P	C	C		P	P	
Personal and convenience services								P	P	P	C	C		P	P	
Financial institution								C	P	P	C	C				
Club and meeting facility									P	P	C	C				
Hospital									P	P	C	C				XXX
Medical or dental clinic									P	P	C	C				
Radio and television studio									P	P	C	C				
Printing and publishing house									P	P	C	C		P		

Table 54.53.1 Allowable Uses

P = Permitted Use T = Temporary Use C = Conditional Use A = Accessory Use Blank means use is not allowed in the district																
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD	Use Standards
Media production facility									P	P	C	C		P		
Animal hospital and/or clinic									P			P		P		
Animal hospital and/or clinic with open animal runs																XXX
Kennel, within an enclosed building									P		P	C			P	
Kennel, with open animal runs									C		P				P	XXX
Adult entertainment, retail sales and/or live entertainment									C							XXX
Landscape nursery, retail								P	P	P	C	C		P		
Landscape nursery, wholesale or bulk sales									C		P	P		C	P	XXX
Firewood sales									C		C	P		C	P	XXX
Mobile Vending									C	C	C	C	C	C	C	XXX
Industrial Uses																
Artisan manufacturing									P		P	P		C	P	XXX
Light manufacturing									C		P	P		C	P	XXX
Heavy manufacturing											P	P			P	XXX
Special manufacturing												C			C	XXX
Cannabis manufacturer									C		P	P				XXX
Storage units								C	C		P			C	P	XXX
Building material sales and storage									C		P	P		C	P	XXX
Feed, grain and fertilizer sales and storage												P		C	P	XXX
Firewood sales, splitting and storage									C		P	P			P	XXX
Bulk fuel sale or storage									C		P	P			P	XXX
Automobile, boat, motorcycle or RV sales, service and repair										C	P	P			P	XXX
Heavy vehicle and equipment sales, rental, service and repair											P	P			P	XXX
Automotive upholstery shop									P		P	P			P	
Tire sales, service and repair									C		P	P			P	
Contractor's shop and yard									C		P	P			P	XXX
Warehousing, storage and distribution											P	P			P	XXX
Metalwork and/or machine shop									C		P	P			P	XXX
Glass cutting and finishing									C		P	P			P	XXX

Table 54.53.1 Allowable Uses

P = Permitted Use T = Temporary Use C = Conditional Use A = Accessory Use Blank means use is not allowed in the district																
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD	Use Standards
Engraving shop									P		P	P			P	XXX
Towing or wrecker service											C	P		P		XXX
Recycling purchase center, not including processing and storage											C	P		P		
Bulk storage of nonexplosive liquids											C	P		P		XXX
Television and radio towers									C		C	P			P	XXX
Public/Institutional Uses																
Church	C	C	C	C	C	C	C	P	P	P	P		P	P		
School	C	C	C	C	C	C	C	C	P	P	C			P		
Public Buildings		C	C	C	C	C	C	P	P	P	P	C	P	P	P	
Library								P	P		P		P	P		
Instructional center, other than a school									P	P	P			P		
Trade school									P		P	P		P	P	
Airport												C			C	
Recreation and Entertainment Uses																
Neighborhood park or public open space	C	C	C	C	C	C	C	C	C	C	C	C	C	C		XXX
Entertainment, recreational, health and exercise facility, indoor								P	P	P	P	C		P		XXX
Entertainment, recreational, health and exercise facility, outdoor									C			P		P	P	XXX
Shooting range, indoor and outdoor									C		C	C			C	XXX
Swimming pool, commercial									C	C	C			C		XXX
Utilities/Telecommunication																
Utilities, Major	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	XXX
Utilities, Minor	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	XXX
Wireless telecommunications	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Wireless telecommunications facilities
Accessory Uses																
Accessory dwelling unit	A	A	A	A	A								A	A		Accessory dwelling unit
Caretaker unit											A	A		A	A	Sec. 54-55(i)(2)
Drive up or drive through service window								A	A		A	A		A	A	Sec. 54-55(i)(3)

Table 54.53.1 Allowable Uses																
P = Permitted Use T = Temporary Use C = Conditional Use A = Accessory Use Blank means use is not allowed in the district																
	R-1	R-2	R-3	R-4	AR-1	M-1	M-2	C-1	C-2	C-3	C-4	I-1	R-PUD	M-PUD	I-PUD	Use Standards
Home Occupation	A	A	A	A	A	A	A									Sec. 54-55(i)(4)
Family Child Care Home	A	A	A	A		A	A									Sec. 54-55(i)(5)
Outdoor storage, within enclosed yard									A		A	A				
Electrical Vehicle Charging Station, Commercial or Public								A	A	A	A	A		A	A	Sec. 54-55(i)(6)
Temporary Uses																
Special event								T	T	T	T	T		T	T	xxx
Outdoor sales								T		T						Outdoor sales
Circus, carnival, or similar enterprise									T							XXX

Sec. 54-55 USE SPECIFIC STANDARDS

(a) Agricultural Uses

(1) Cannabis producer

This use must comply with applicable local and state laws and regulations.

(2) Cannabis producer microbusiness

This use must comply with applicable local and state laws and regulations.

(b) Residential Uses

(1) Single-family detached dwelling

If the single family dwelling meets the definition of a manufactured home and is not located in the MH-1 or MH-2 district, the manufactured home must meet the definition of a multi-section manufactured home installed on a permanent foundation consistent with the Manufactured Housing Act (NM Statutes 3-21A1-8)

(2) Two-family dwelling

A two-family dwelling is a principal residential building occupied by 2 dwelling units, both of which are located on the same (single) lot, which is not occupied by other principal residential buildings. The 2 dwelling units are attached and may be located on separate floors or side-by-side.

(3) Caretaker quarters

One dwelling unit for security or 24-hour supervision may be allowed on the premises of a nonresidential principal use if approved as a conditional use.

(4) Multifamily dwelling

A multifamily dwelling permitted as a conditional use in the R-2 District may not exceed four dwelling units per building.

(5) Mobile home

- a. Placement and maintenance of mobile homes; mobile home construction standards.
- b. No mobile home may be placed upon any lot prior to submittal of a site plan to the village and receipt of subsequent approval of the site plan as provided in [Section 54-63](#).
- c. There shall be no occupancy of any mobile home until an occupancy permit is issued. No occupancy permit shall be issued if the mobile home is not connected to public sewer and water lines, unless an alternate system is approved by the village engineer.
- d. No mobile home may be parked on a roadway for more than 24 hours.
- e. No abandoned, burned or wrecked mobile home may be kept within the M-1 district for more than 30 days.
- f. Each mobile home must bear an insignia which attests that the construction of the mobile home meets regulation A119.1 of the American National Standards Institute (adopted by the U.S. Department of Housing and Urban Development).
- g. Standard mobile home skirting must be provided around the entire perimeter of the mobile home between the bottom of the body of the mobile home and the ground.
- h. Each mobile home must be anchored to the ground in a manner acceptable to the building official.
- i. Each mobile home must be stabilized from beneath using a concrete masonry and/or metal support system acceptable to the building official.
- j. There shall be no exposed outdoor storage of furniture (except lawn furniture), household goods, tools, equipment or building materials or supplies.
- k. Inspections.

The planning administrator or his agent is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this article and shall have the authority to enter at reasonable times upon any private or public real property for the purpose of inspecting and investigating conditions relating to the enforcement of this article.

- l. It shall be the duty of the owners or occupants of a lot in a mobile home subdivision to allow the planning administrator or his agent free access to such premises at reasonable times for the purpose of inspections.

(6) Group home

- a. A group home must comply with applicable local, state, and federal regulations.

- b. In residential districts, the appearance of a group home must be compatible with the character of dwellings in the surrounding neighborhood.

(7) Nursing home

A nursing home must comply with applicable local, state, and federal regulations.

(c) Hospitality/Lodging Uses

(1) Hotel/motel

An application for a hotel must be accompanied by a site development plan as described in Section .

(2) Overnight campground.

The minimum size of a campground is two (2) acres.

(3) Recreational vehicle (RV) park

The minimum size of an RV Park is two (2) acres. Commercial Uses

(d) Automobile Related Uses

(1) Automobile service station

- a. Site improvements such as buildings or structures (permanent or temporary) shall be separated from any residential district by at least 50 feet. Parking areas shall be separated from any residential district by at least 15 feet.
- b. The total site area shall not be less than 12,000 square feet.
- c. Pump islands shall be set back not less than 25 feet from any street right-of-way line, not less than 40 feet from any non-street line, and not less than 75 feet from any residential district boundary.
- d. Hydraulic hoists, pits and all lubrication, greasing, washing, repair and diagnostic equipment shall be used and enclosed within a building.
- e. Interior curbs of not less than six inches in height shall be constructed to separate driving surfaces from sidewalks, landscaped areas and street rights-of-way.
- f. No automobile service station on a site contiguous to any residential district shall be operated between the hours of 10:00 p.m. and 7:00 a.m. of the following day.

(2) Automobile and motor vehicle service and repair facilities

- a. All materials, merchandise and equipment, other than motor vehicle fuels, shall be stored within an enclosed building.
- b. Vehicles that are actively being serviced or repaired may be temporarily stored on site. Vehicles must be screened from residentially zoned properties and public rights of way as required in Section [screening standards ref]

(3) Light vehicle washing establishment

- a. Light vehicle washing establishments shall be subject to the same limitations and conditions as automobile fuel stations as set out in subsections (d)(1)a. through f. of this

section.

- b. Sufficient off-street area to provide space for not less than ten automobiles waiting to be washed or three waiting spaces per washing stall, whichever is greater, shall be provided. A space 20 feet by nine feet shall be deemed adequate for each such required space.
- c. All washwater disposal facilities, including sludge and grit removal and disposal equipment, shall be subject to the approval of the village engineer, and shall conform with all village ordinances regarding sewage and health, and shall be designed so as not to detrimentally affect the village water or sewer system.

(e) Commercial Uses

- (1) Adult or child care facility. A minimum of 35 square feet per child shall be provided within a child care facility for indoor activity and at least 50 square feet of fenced-in outdoor play space per child shall be provided on site. Fenced-in outdoor play space shall not include driveways, parking areas or land unsuited for children's play space by virtue of the usage or natural features. A state license shall be obtained prior to commencement of operation of an adult or child care facility.

- (2) Retail, general

- a. A retail business can have up to 10% of ground floor area of the principal use for outdoor displays

- Outdoor merchandise displays must be screened from adjacent Residential districts or adjacent residences.

- b. Outdoor storage is not allowed.

- (3) Cannabis Retail

- This use must comply with all local, state, and federal regulations.

- (4) Tobacco sales

- All establishments selling tobacco products must comply with state laws and regulations and licensing requirements.

- (5) Restaurant

- a. Alcohol sales for consumption on site are allowed.
 - b. Alcohol sales must comply with state laws and regulations.

- (6) Convenience food restaurant

- Convenience food restaurants shall be subject to the same limitations and conditions as automobile service stations as set out in subsection (d)(1)a. through f. of this section.

- (7) Hospital

- a. This use should be screened from Residential districts and any lot with a residential use.
 - b. Heliports are permitted as a use incidental to a hospital.

(8) Bar and nightclub

- a. Alcohol sales are for on-premise consumption only.
- b. Alcohol sales must comply with state laws and regulations.

(9) Liquor for consumption off-site

- a. This use must comply with state laws and regulations.
- b. Liquor sales for off-site consumption shall not be located within three hundred (300) feet of an active religious institution or educational facility as measured from the property line of the licensed premises and the property line of the restricting facility.

(10) Brewer/winery/distillery

- a. Breweries, wineries and distilleries must comply with state laws and regulations for a small brewer's license, domestic winery, and craft distiller's license.

(11) Animal hospital and clinic, with open animal runs

- a. Outdoor animal runs are permitted as an accessory use provided that they are enclosed with a solid wall or fence at least six feet in height.
- b. This use must comply with section 38-62 regarding property nuisances

(12) Kennel, with open animal runs

- a. Outdoor animal runs are permitted as an accessory use provided that they are enclosed with a solid wall or fence at least six feet in height.
- b. This use must comply with section 38-62 regarding property nuisances.

(13) Adult entertainment, retail sales and/or live entertainment

- a. These uses are prohibited in the following locations:
 - Within 500 feet in any direction of any Residential zone district; lot containing any residential use in any Mixed-use zone district; religious institution; or elementary, middle, or high school.
- b. Within 1,000 feet in any direction of another premises containing an adult entertainment or adult retail use.

(14) Mobile vending

- a. Mobile vending includes any activity involved with food preparation or sales and sales of merchandise from a mobile truck or trailer.
- b. Other than special events approved as a temporary use, the mobile vending must receive approval as a conditional use and meet the following standards:
 - The minimum lot size for mobile vending units is 12,000 square feet.
 - 40.** Mobile vending units must be located on a site with an existing business.
- c. The operator of a mobile food truck/retail truck court must provide trash receptacles and hand-wash stations. A waste disposal plan must be approved with the conditional use request.

- d. Mobile vending operators shall comply with all applicable City, State, and federal requirements, including food safety, business licenses, and noise.
- e. A mobile vending unit and any associated tables, chairs, displays, umbrellas, or the like, do not physically occupy or obstruct access to any parking spaces necessary to meet the minimum parking requirements for any on-premises land uses. A restroom must be accessible to customers when seating is available.

(f) Industrial Uses

(1) Artisan Manufacturing

- a. All activities must be conducted within a completely enclosed building.
- b. Retail sales of goods produced on the property are allowed.
- c. Processes and production that input or create hazardous by-products, as defined by federal regulation, in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts shall obtain a Conditional Use Permit

(2) Light Manufacturing

- a. All activities in this use must be conducted in an enclosed building.
- b. Processes and production that input or create hazardous by-products, as defined by federal regulation, in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts shall obtain a Conditional Use Permit

(3) Heavy Manufacturing

- a. This use may be conducted outside of an enclosed building.
- b. This use must comply with section 38-62 regarding property nuisances.

(4) Storage Units

- a. *Minimum site area.* Minimum site size shall be one acre.
- b. *On-site circulation, drives and driveways.*
 - 1. Each storage unit shall provide a minimum of two exits.
 - 2. All one-way driveways shall provide for one ten-foot-wide parking lane and one 15-foot-wide travel lane. Traffic direction and parking shall be designated by painting or signs.
 - 3. All two-way driveways shall provide for one ten-foot-wide parking lane and two 12-foot-wide travel lanes.
 - 4. The parking lanes may be eliminated when the driveway does not serve storage cubicles.
 - 5. At least one parking space for each ten storage cubicles, equally distributed throughout the storage area, shall be provided, in addition to those in the parking lanes.
 - 6. All driveways and parking, loading and circulation areas shall be paved with concrete, asphalt or asphaltic concrete.

c. *Fencing and screening.*

1. Fencing shall be required around the perimeter of the project at a minimum of six feet in height and constructed of decorative concrete block, as approved by the planning commission.
 2. All outdoor storage shall be limited to recreational vehicles and shall be screened from view from surrounding properties.
- d. *Setbacks.* Any side of a building providing doorways to storage areas shall be set back from the property line with not less than 25-foot side and rear yard setbacks; otherwise, sides of a building not providing doorways to storage areas may have a zero side or rear lot line provided the building is of the same material as the fencing. If not of the same material, the rear yard setback shall be at least 15 feet.
- e. *Trash enclosures.* Masonry trash enclosures shall be installed subject to the approval of the planning commission.
- f. *Prohibited uses.* No auctions, commercial sales, garage sales or similar activities shall be conducted on the premises.

(5) Cannabis manufacturing

- a. Cannabis cultivation is allowed, provided that the establishment complies with all local and state law requirements, including location at least 300 feet from a school or adult or child daycare center.
- b. Site development plan meets minimum code requirements set forth in [Sec. 54-63](#). Site plan and concept approval.
- c. All activities in this use shall be conducted within the fully enclosed portions of a building unless an incidental storage area is approved in the site plan.
- d. An incidental storage area is allowed outside of the fully enclosed portions of a building but shall be screened from view from each property line.
- e. An air filtration plan approved by the Village Building Official and New Mexico Environment Department is required.

(6) Cannabis research laboratory

This use must comply with all local and state laws.

(7) Cannabis testing laboratory

This use must comply with all local and state laws.

(8) Building material sales and storage

All storage, display, and sales areas outside of a fully enclosed building must be screened from any adjacent Residential zone district or lot containing a residential use.

(9) Firewood sales, splitting and storage, wholesale

- a. Materials stored outdoors must be screened from adjacent Residential districts and any

adjacent residence.

- b. This use must comply with Sections 38-31 and 38-62 regarding noise and property nuisances.

(10) Heavy vehicle and equipment sales, rental, service or repair—

- a. All materials, merchandise and equipment shall be stored within an enclosed building.
- b. All processes that generate noise, fumes, or other adverse effects must be conducted within an enclosed building.
- c. Vehicles for sale may be displayed on the property as long as they do not interfere with traffic circulation, but vehicles must be screened from view of adjacent non-industrial zoned properties.
- d. Temporary outdoor storage of vehicles being repaired is allowed. When not within and enclosed building, vehicles being repaired must be screened from view of adjacent non-industrial properties and from any public street.
- e. Wrecker or towing services may be located on the property provided that they meet all state regulations for such services.

(11) Contractor's shop and yard

All outdoor storage of materials and equipment must be located behind the principal building and screened from view of any adjacent non-industrial property and any public street.

(12) Television and radio towers

Television and radio towers shall meet the requirements of other sections of this Article. Exemptions from height limitations shall be as defined in Section 54-49. This use does not include wireless telecommunications towers, which are regulated in Article VII of this Chapter.

(g) Recreation and Entertainment Uses

(1) Neighborhood park

This use must meet local ordinances related to lighting, noise, odors, and other impacts on adjacent properties, including Section 38-31 (noise), Section 38-62 (property nuisance), and section 54-XX (illumination).

(2) Entertainment, recreational, health and exercise facility, outdoor

This use shall be screened from any adjacent residential district or lot containing a residential use by a solid wall, fence or other measures. The screening must be designed to prevent objects from the activity from passing beyond the property line onto any surrounding property not owned by the operator of the use.

- f. This use must meet local ordinances related to lighting, noise, odors, and other impacts on adjacent properties, including section 38-31 (noise), section 38-62 (property nuisance), and section 54-XX (illumination).

(3) Swimming pool, commercial

This use must be conducted within an enclosed building.

- g. Swimming pools must meet all local, state, and federal health and safety standards.

(h) Utilities/Telecommunication

(1) Wireless telecommunications facilities

This use must comply with [Article VII](#) of this Chapter (Wireless Telecommunications Facilities)

(i) Accessory Uses

(1) Accessory dwelling unit

Accessory dwelling units are allowed only in the R-1 district and must receive conditional use approval.

Accessory dwelling units may not be used as short-term rentals.

The owner or long-term resident of the primary structure must live on site.

(2) Caretaker dwelling unit

Caretaker dwelling units are allowed in RV parks as a permanent residence.

(3) Drive-up or drive-through service window

Drive-up or drive-through service windows, stacking lanes, and circulation are prohibited in the established front setback of the principal building, or in an established side yard which abuts a street.

Drive-up or drive-through service windows, stacking lanes, and circulation are treated as component off-street parking for the purposes of screening as described in [Section 54-71](#) to [Section 54-72](#).

Drive-up or drive-through service windows must meet the standards for drive-up window stacking lanes as defined in [Section 54-78](#).

The service lane(s) must be distinctly marked by striping, pavement markings, or traffic islands.

A separate circulation drive must be provided for passage around the outermost service lane.

Screening is not required for walk-up service accessories such as depositories and ATM's.

(4) Home Occupation

Any Home Occupation must meet the standards specified in Division 6. Home Occupations.

(5) Family Child Care Home

An independent childcare provider must be a licensed or registered family child care home with the State of New Mexico and comply with state regulations for family

child care homes.

Only permanent residents of the home may provide care.

Outdoor play areas must be enclosed by a wall, fence or landscape screen at least 6 feet in height.

(6) Electrical Vehicle Charging Station

Level 1 and Level 2 EV charging equipment is allowed outright as an accessory use to any principal use in all districts.

Level 3 charging equipment is allowed as an accessory use in commercial zones with permit approval by the Community Development Department.

- h. The permit process for a Level 3 EV charging station is the same as the conditional use process.
- i. EV charging stations must meet the standards of the National Electric Code.

(7) Accessory structures common to permitted and conditional uses of the zoning district

Accessory structures must meet the use and equipment and setbacks, height, and encroachments standards of this Section (section 54-137 and section 54-140).

(j) Temporary Uses

(1) Outdoor sales

Unless a conditional use is granted by the planning commission for outdoor sales, outdoor sales are restricted as follows:

- j. An outdoor sales special events permit shall be obtained from the Parks and Recreation Department as defined in section 29-69 prior to each event. The planning department may require submittal of a site plan and event schedule with the application. The special event application is reviewed by other Village departments prior to issuing the special use permit and may impose restrictions on the event when issuing the permit.

(2) Circus, carnival, or similar enterprise

This use must obtain a special event permit and described in section 26-69 and section 62-34.

DIVISION 6: PROCEDURES

Sec. 54-56 GENERAL PROCEDURES

(a) General Review Processes

Procedures	Planning Administrator (No Public)	Planning Commission (Public)	Village Council (Public)	Code Citations
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	Hearing)	Hearing)	Hearing)	
Certificate of Zoning Compliance	Decision	Appeal	Appeal	
Subdivision – Minor	Decision	Appeal	Appeal	Article III
Sign Permits	Decision	Appeal	Appeal	Division 8
Home Occupation	Decision	Appeal	Appeal	Division 9
Fences	Decision	Appeal	Appeal	Sec. 54-75
Landscaping	Decision	Appeal	Appeal	Sec. 54-72
Building Permits	Decision	Appeal	Appeal	
Telecommunications	Decision	Appeal	Appeal	Article VII
Variance				Sec. 54-60
Conditional Use Permit	Review	Final (2/3)	Appeal	Sec. 54-61
Planned Unit Development				Sec. 54-62
1. Concept Plan	Review	Recom.	Optional	
2. Development Plan	Review	Recom.	Decision	
3. Final Construction Plan	Decision			
Site Development Plan	Review	Decision	Appeal	Sec. 54-63
Zone Map Amendment	Review	Recom.	Decision	Sec. 54-59
Subdivisions - Major	Review	Recom.	Decision	Article III
Text Amendments	Review	Recom.	Decision	Sec. 54-59
Annexation	Review	Recom.	Decision	Sec. 54-64
Vacation	Review	Recom.	Decision	Sec. 54-65

- (1) Administrative Review and Decision Processes - The following development requests can be administratively reviewed through the building permit process provided that other additional review processes and standards do not apply:
- a. Sign Permits
 - b. Certificates of Zoning Compliance
 - c. Subdivision - Minor
- (2) Review and Decision Processes Requiring a Public Meeting – The following development requests require a public hearing:
- d. Variance
 - e. Conditional Use Permit
 - f. Site Development Plan
 - g. Planned Unit Development
 - h. Zone Map Amendment
 - i. Subdivisions - Major

j. Text Amendments

k. Annexation

(b) Development Application and Submission Requirements

(1) Authority – The Planning Administrator has the authority ask for application and submission materials, to review plans for completeness, and to assess plans for compliance with relevant code requirements.

(2) Application and Submission Materials – The applicant shall submit to staff an application and the necessary submission materials as determined relevant by the Planning Administrator.

a. The Planning Administrator should provide application checklists with standard application materials required for different development requests.

b. Application materials should be necessary and correspond to the level of review. For example: submission materials for a concept plan should allow for a general review of design themes, building massing, and land uses but should not include technical, construction, or engineering drawings if such materials are beyond the scope of review and if such materials are better evaluated through review of the final construction plan or building permit.

c. More information may be requested to clarify the application or determine its compliance with the provisions of this chapter or other applicable ordinance, resolution, policy, or guideline.

d. Submission materials should not impose an excessive or unnecessary burden on the applicant.

(c) Fees: Application fees related to the cost of processing applications shall be charged in accordance with the fee schedule in Appendix A of this Code.

(1) Application fees should approximately cover the cost of public services necessary for processing the request.

(2) Fees are not refundable.

(d) Withdrawal of Application

(1) A land development application may be withdrawn by the applicant at any time.

(2) Withdrawal of an application must be made via a written notification to both the Planning Administrator and the Village Clerk.

(3) Withdrawn applications do not nullify final decisions, nor do they nullify documents which have been filed and recorded by the County Clerk – such as final plats.

(4) Application fees are not refundable due to the withdrawal of an application.

(e) Public Hearings

(1) Notice. The Planning Administrator shall issue a notice of the time and place for a scheduled public hearing. The notice shall identify the nature of the application or proposed action and list contact information where persons can obtain additional details or view the file. A record of all notices issued shall be maintained in the case file.

(2) Notice of a public hearing shall occur as follows:

- a. Notice shall be given at least 15 days in advance of the scheduled meeting through the mail or, if requested and such contact information is available, via fax or email to the following:
 1. Property owners within 200 feet of the subject property. Public rights-of-way adjacent to the subject property shall be considered part of the application or proposed action area for purposes of determining which properties are within the notice area.
 2. The applicant, the applicant's agent, and the property owners if other than the applicant.
 3. Individuals, newspapers of general circulation, and broadcast stations licensed by the federal communications commission who have filed a written request to receive notice.
- b. Notice shall be posted on the village web site at least 15 days prior to the scheduled meeting.
- c. Notice shall be posted on the subject property at least 15 days prior to the scheduled meeting.
- d. Notice shall also be published in a local newspaper of general circulation at least 15 days prior to the scheduled meeting for the following types of applications:
 4. Proposed amendments to the Village Municipal Code related to land use.
 5. Applications or proposed actions involving at least five acres.
 6. Applications or proposed actions involving property along arterial or collector streets within the village.
 7. Any application requiring a public hearing before the Planning Commission.
 8. Any other action that the Planning Administrator deems appropriate for publication due to its impact on the community at large.

(f) Planning Commission Hearing procedures.

- (1) The Planning Commission shall hold public hearings to consider applications as required under this article.
- (2) Review Packet. Prior to the public hearing, the Planning Administrator shall assemble a packet with the submitted proposal and any supplementary materials available such as a staff report, review by other agencies, or comments made by the public. The packet shall be available for

review by both the Planning Commission and the public. The review packet shall be submitted to the Planning Commission and shall be made a part of the hearing record.

- (3)
- (4) Parties to hearing. A written statement giving the name and address of the person making the appearance, signed by him or his agent and filed with the Planning Administrator, constitutes appearance of record. The parties to a hearing shall be any of the following persons who entered an appearance of record either prior to commencement of the hearing or when permitted by the Planning Commission during the conduct of the hearing:
- (5) Persons entitled to notice under subsections (4)a., b., c. and d.(check reference) of this subsection.
- (6) The representatives of any department or agency of the village or another unit of government.
- (7) A person who demonstrates interest in the subject matter of the hearing to the Planning Commission.
- (8) Testimony. Each party or witness shall be placed under oath at the time of speaking and shall be offered reasonable opportunity to present evidence and argument on all relevant issues. The Planning Commission may impose reasonable limitation on the number of witnesses heard and, on the nature, and length of testimony and questioning. The Planning Commission may call witnesses and introduce papers on its own volition.
- (9) Records. The Planning Administrator or Village Clerk shall make a full record of the hearing by sound recording. Summary minutes shall be kept of all public hearings, and they shall be kept available for public inspection. Any person shall have the opportunity to listen to, copy or transcribe the sound recording of the public hearing at any reasonable time at the office of the Planning Administrator or the Village Clerk.
- (10) Continuation of hearing. An advertised hearing may be continued to a time and place announced at the hearing without re-advertising.
- (11) Prohibited acts by commission. Prior to Planning Commission action, the Commission shall neither:
- (12) Communicate directly or indirectly with any party or his representative in connection with the merits of an issue involved;
- (13) Use or rely upon communication, reports, staff review or other materials prepared in connection with the particular case unless made part of the record; nor
- (14) Inspect the site with any party or his representative unless all parties are given an opportunity to be present.
- (15) Decision by commission. The Planning Commission shall act on an application on conclusion of the public hearing or at its next regular meeting following the hearing. The commission shall state for the record the key findings of fact on which the commission decision is based.
- (16) Notification of decision. When any application is approved, approved with conditions, or denied, written notification of the Planning Commission action, listing any conditions

imposed, shall be sent within two days of the commission action to the applicant and to any other party who has requested to be so informed.

(17) Appeals. Any decision by the Planning Commission is final unless appeal is initiated to the Village Council as prescribed by [section 54-62 \(check reference\)](#).

(18) Building Permits. A building permit dependent on a case shall not be issued until an appeal is decided or the time for filing an appeal has expired without an appeal being filed. However, a building permit may be issued before the appeal period has expired if the applicant agrees in writing to surrender the building permit and cease all work if an appeal is duly filed.

(Code 1985, § 10-2-1; Ord. No. 96-01, 1-9-96; Ord. No. 2008-11, 10-14-08; Ord. No. 2019-01 , 1-8-19; Ord. No. 2019-02 , 3-12-19)

Cross reference(s)—Boards, commissions and committees, § 2-81Cross reference(s)— et seq.; Planning Commission, § 2-161Cross reference(s)— et seq.

(g) Appeals

(1) Appeal Period. A request for an appeal shall be filed within 15 days of the decision which is being appealed unless otherwise noted and receipt of the request will be communicated to the appellant and, if different, to the appellee.

(2) Applicability. Any aggrieved person or any officer, department, board or bureau of the Village affected by a decision of an administrative officer, commission, or committee which erroneously enforces this article or any ordinance adopted pursuant thereto may request an appeal hearing per [NM Stat § 3-21-8 \(2021\)](#).

a. Advisory opinions, recommendations, and informal interpretations of code are not appealable actions.

b. Decisions which are not alleged to be an erroneous enforcement of this article or requests for a variance from or change to the applicable regulations are not valid appeals.



c. Any sign permit application which is rejected, for any reason, by the community development department may be appealed to the planning commission. The applicant shall submit, in writing, a request to be placed on the planning commission agenda within five working days of the rejection. The appeal will be scheduled for the next planning commission meeting, provided the planning commission agenda deadline has not passed, in which event the matter will be scheduled for the next regularly scheduled planning commission meeting.

(3) Submission. A request for an appeal shall be on a form prescribed by the Planning Administrator, shall state the name, contact information, and address of the applicant, and shall specify how the decision being appealed is based on an error related to the enforcement of this article or of any ordinance adopted pursuant thereto.

- (4) Stay of proceedings. Submission of an appeal request shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, committee or board from whom the appeal is taken certifies that, by reason of facts stated in the certificate, a stay would cause imminent peril to life and property. Upon certification, the proceedings shall not be stayed other than by a restraining order granted by the district court on notice to the village clerk with due cause shown.
- (5) Determination of Appeal Validity and Notice.
- a. Within 5 working days of receipt of an appeal request, the Village Attorney or Planning Administrator shall determine and communicate to the applicant whether the submission is a valid request for an appeal based on the applicability and submission requirements or if more information is needed. Applicants will have 5 working days to resubmit.
 - b. Notification of a valid appeal request shall be sent by the Planning Administrator to the the appellant, the appellee, a representative of the opponents if any are known, and to any other parties who have requested to be so informed.
 - c. Notification of an invalid request for an appeal shall be sent by the Planning Administrator to the appellant along with a rationale of why the request for an appeal was invalid.
- (6) Scheduling of an Appeal. For a valid appeal request, the Planning Administrator shall schedule a public hearing with either the Planning Commission or the Village Council as defined by applicable processes.
- (7) Notice of Public Hearing.
- a. Notice of a public hearing shall be given according to applicable regulations ([Sec. 54-56\(g\)](#)).
 - b. The Planning Administrator shall give written notice of the date, time and place of such hearing to the applicant, the appellant, the appellee, a representative of the opponents if any are known, any persons who appeared before the Planning Commission during its consideration of the matter, and any other parties who have requested to be so informed at least 15 days prior to the date of the hearing. In addition, if the appeal relates to a specific site, a similar notice shall be sent to each owner of property situated within the required notification area of the property to which the appeal relates. The appellant shall furnish an abstractor's certified property certificate showing the property ownership within the required notification area of the property. The Planning Administrator shall make a copy of the notice and a list of the owners and addresses to which the notice was sent as a part of the record of proceedings. The failure to receive notice by individual property owners shall not invalidate the proceedings.
- (8) If requested, the Planning Administrator may provide notice by fax or email, if the Planning Administrator has facsimile numbers or email addresses available, in lieu of mailed notice. Faxed or emailed notice shall be sent at least ten days prior to the meeting at which the case is to be heard. Packet of Materials for Review. Prior to the public hearing the Planning Administrator shall submit a packet containing all the documents constituting the record of the case appealed,

evidence provided by the appellant supporting the appeal, comments from other interested parties, and such further facts as may be pertinent or material to show the grounds of the decision appealed.

(9) Review Process. The Planning Commission or Village Council shall hear the appeal and render a decision within 45 days.

- a.  The reviewing body shall consider oral and written testimony from the appellant, the appellant's agent or attorney, village staff members, and other interested parties. All such oral testimony, other than attorneys' statements and questions, shall be in accordance with the provisions of section 54-61(f)(8), relating to testimony and evidence before the Planning Commission. The reviewing body shall also study the record of the action on the appeal.
- b. If postponed, the reviewing body shall make a decision on the appeal at its next regularly scheduled meeting.
- c. The reviewing body, by a two-thirds vote of all of its members, may:
 1. Reverse any order, requirement, decision or determination;
 2. Decide in favor of the appellant; or
 3. Make any change in any order, requirement, decision or determination.
- d. If the reviewing body fails to so decide by a two-thirds vote of all of its members, or if it decides by a simple majority of those members present to uphold the decision, then the decision shall stand.
- e. Notice of decision. The Planning Commission or Village Council shall issue a written notice of its decision to all concerned parties and to the Village Clerk. The notice shall state the facts of the matter, the reasons for its decision, and any conditions applied to the decision.
- f.  Judicial review. The exclusive remedy for parties dissatisfied with the action of the Village Council shall be the filing of a petition for review in the district court, according to state law.

(Code 1985, § 10-2-2; Ord. No. 96-01, 1-9-96; Ord. No. 98-17, § 2, 11-10-98; Ord. No. 2008-11, 10-14-08)

(b) Reconsideration of applications.

- (1) An application which is substantially the same to one which has been rejected by the Planning Commission or Village Council, shall not be accepted within 12 months of the final decision.

(c) Approval Expirations

(1) Expiration due to inactivity.

- a. Unless otherwise noted, if work has not started, or if a land development request has not been filed which amends or further refines the approval within one year of issuance, the

land development approval shall expire and shall be considered cancelled by the Planning Administrator.

(2) Expiration due to timeliness.

- a. If the work described in a permit or land development request has not been substantially completed within two years of the date of issuance thereof, or within the time limit established by the Planning Commission or Village Council, the permit shall expire and shall be considered cancelled by the Planning Administrator. Applicants without a specific time limit established by the Planning Commission of Village Council may request up to three, one-year extensions to the Planning Administrator.

(d) Administrative Amendments and Minor Deviations

(1) Administrative amendments. The Planning Administrator may approve minor amendments to existing development approvals that would otherwise require review by applicable approval bodies provided such changes do not exceed the following limitations:

- a. Administrative amendments shall be consistent with or neutral in regards to prior actions by the Planning Commission or Village Council, if applicable. No administrative amendments shall be approved would reduce the effect of any existing conditions of approval.
- b. Administrative amendments can be combined with a minor deviation but cannot be used for a change that would require a variance to applicable regulations.
- c. Administrative amendments shall not increase the square footage or building footprint of a proposed development by more than 25% as calculated from the net increase of an existing approval, not the total existing or proposed building area.
- d. Administrative amendments shall not increase the height of a building or structure by more than 12 inches or 10% of the total approved height, whichever is greater.
- e. Administrative amendments shall not result in changes which are expected to be controversial or which contradict negotiations, agreements, or approvals reviewed and decided upon by the Planning Commission.
- f. Administrative amendments should not result in noticeable and relevant detrimental effects to surrounding property owners, residents, or the Village.

(2) Minor Deviations. The Planning Administrator may approve minor deviations to applicable regulations that would otherwise require a variance provided such changes comply with the limitations of administrative amendments and, additionally, do not exceed the following limitations:

- a. Minor deviations shall be necessary to overcome a hardship, meet the overall intentions of the code, or to improve compliance with planning goals and intentions adopted by the Village of Ruidoso.
- b. Minor deviations shall not exceed 10% of any dimensional requirements.

- c. Minor deviations shall not result in the need for a new traffic study.

(e) Enforcement

(1) Applicability

- a. No person shall locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or structure, or use any land, in violation of this article.
- b. This section describes enforcement actions related to Village land use regulations imposed in this article and to conditions of approval which are directly applied through Village land development processes.
- c. Private covenants shall not be enforced by the Village.

- (2) Complaints. When a violation of this article is alleged to have occurred, any person may file a complaint, which shall be in writing. The complaint, stating fully the causes and basis thereof, shall be filed with the code enforcement officer or the Planning Administrator who shall record the complaint properly, investigate in a timely manner and take action as provided by this article.

- (3) Notice of violation. If a code enforcement officer or the Planning Administrator shall find that any of the provisions of this article are being violated, they shall:

- a. Notify, in writing, the owner or tenant of the property, indicating the nature of the violation, the code provision violated, the time by which the violation must be corrected, and ordering the action necessary to correct it.
- b. The notification shall order the discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; or discontinuance of any illegal work being done; or shall take any other action authorized by this article to ensure compliance with or to prevent violations of its provisions.

- (4) After a notice of violation has been served, no work shall be processed on any structure or tract of land covered by such the notice except to correct such violation or to comply with the order.

- (5) Remedies for violations. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used, in violation of this article or any of the regulations promulgated thereunder, the Village Council, Village Attorney, administrative official, or any other proper village official may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

(6) Penalties

- a. Any and all persons who shall violate any of the provisions of this article or fail to comply therewith, or who shall violate or fail to comply with any lawful order or regulation made under this article, shall severally, for each and every such violation and noncompliance respectively, be punishable as provided in section 1-6, to which penalty may be added the costs of the action at the discretion of the court.
- b. The imposition of a penalty shall not excuse the violation or permit the continuation thereof, and all such persons shall be required to correct or remedy such violations and defects within a reasonable time.
- c. Each day that the prohibited condition is not corrected or remedied shall constitute a separate offense, and the court shall impose a fine on a per diem basis for each day that the violation is maintained.

(7) In addition to or in lieu of the procedures outlined in this section, this article shall be enforceable in a court of proper jurisdiction, and any or all appropriate remedies at law or in equity shall be available for the enforcement thereof.

(8) This article shall not be construed to hold the Village, the Planning Administrator, or any other village official responsible for any damage to persons or property by reason of any inspection or reinspection authorized in this article or the failure to so inspect or reinspect or by reason of the issuance of a building permit as required in this article.

Sec. 54-57 ADMINISTRATIVE

- (a) General Administrative Processes
- (f) The Planning Administrator and other City Staff shall review various administrative processes per ###Reference-Module 4-Chapter 54 Division 5###. This includes but is not limited to: signs, minor subdivisions, home occupations, fences, walls, landscaping, telecommunications, terrain, flood hazards, and other building permits.Certificate of Zoning Compliance
 - (1) A certificate of zoning compliance can be issued upon applying for a business registration.
 - (2) A certificate of zoning compliance shall confirm that the requested use is either permitted, subject to a conditional use, legally nonconforming, or not permitted in the applicable zone.

Sec. 54-58 ZONE MAP AMENDMENTS (REZONING)

- (a) Purpose
 - (1) The purpose of a zone map amendment is to change the zoning of an area to meet the land use needs of the Village in conformance with the Village comprehensive plan and in accordance with state statutes.
 - (2) Rezoning applications may be initiated by the Village Council, the Planning Commission, the Planning Administrator, the property owner, or by an authorized agent representing one of the above entities.
- (b) Criteria for Decision
 - (1) An application for a zone map amendment will be evaluated based on the following criteria:
 - a. The existing zoning district is inappropriate for one or more of the following reasons:
 - 1. It was established in error or is the result of a mistake;
 - 2. Surrounding conditions have changed; or
 - 3. The proposed zoning is more advantageous to the community as measured by compliance or fulfillment with the Comprehensive Plan and other, applicable long-range planning priorities.
 - b. A zone map amendment which would result in “spot zoning” as defined per this Chapter shall not be approved.
 - c. Whether necessary infrastructure and public services can be feasibly provided to the property.
- (c) Process

- (1) Application. An application for rezoning shall be made on a form provided by the Planning Administrator. The application shall indicate the legal description of the property, the present zoning classification, and the recommended use of the property by the Village comprehensive plan. The applicant shall present evidence to the Planning Administrator of ownership or type of controlling interest in the property (e.g., option to purchase).
- (2) Administrative Review & Staff Recommendation. The Planning Administrator will provide the Planning Commission with a staff report including an analysis of the approval criteria and a recommended action to aid the Planning Commission in making a decision.
- (3) Planning Commission Review. A rezone not initiated by the Planning Commission shall be referred to the Planning Commission for study and public hearing. In its deliberations on the matter, the commission shall consider oral or written statements from the applicant, the public, Village staff and its own members. The application may not be postponed more than two meetings in succession. The Planning Commission shall notify the council, in writing, of its recommendation.
- (4) Village Council Review. Rezone requests will be reviewed by the Village Council in accordance with the applicable public hearing procedures unless withdrawn by the applicant. During the scheduled public hearing on the matter, the council may approve or disapprove the request for rezoning by ordinance, or postpone the request. The application may not be postponed more than two meetings. If approved, the Planning Administrator shall revise the official zoning map accordingly.

(Code 1985, § 10-2-5; Ord. No. 2008-11, 10-14-08)

Sec. 54-59 TEXT AMENDMENTS TO THE ZONING CODE (CODE AMENDMENTS)

(a) Purpose.

- (1) The purpose of a text amendment is to change the details of this article to better regulate land use and zoning regulations. An amendment to this article may involve changes in its text and wording, including but not limited to changes in the regulations regarding uses, setbacks, heights, lot areas, definitions, administration and/or procedures. Code amendments do not, however, include the rezoning of property.
- (2) Text amendments may be initiated by the Village Council, the Planning Commission, the Planning Administrator, or by petition of a person whose property would be affected by the amendment.

(b) Criteria for Decision

- (1) A text amendment application will be evaluated based on the following criteria:
 - a. Substantial compliance with, or satisfaction of, community priorities related to the Comprehensive Plan and other applicable long-range plans.
 - b. The proposed change will not result in land use inconsistent with the purpose of the district.
 - c. The proposed change will clarify existing language, remove redundant or inconsistent language, or simplify the understanding and implementation of the code.
 - d. The proposed amendment promotes the public health, safety, and welfare of existing and future community residents.

(c) Process

- (1) **Application.** If an individual or other party initiates a request for an amendment to this article, the request must be made on a form provided by the Planning Administrator. The request must state the exact section of this article proposed for amendment, the proposed substitute wording, and the reasons for requesting the amendment. Graphic material should also be submitted, as it will assist in understanding the benefits of the amendment. The submittal must be made to the Planning Administrator and the processing fee paid at least 30 days prior to the date of the public hearing by the Planning Commission. An amendment to this section of the code brought forth by the Village Council shall be done in accordance with subsection 54-64(f).
- (2) **Administrative Review.** The Planning Administrator will provide the Planning Commission with a staff report including an analysis of the approval criteria and a recommended action to aid the Planning Commission in making a decision.
- (3) **Planning Commission Review.** An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and public hearing. In its deliberations on the

matter, the commission shall consider oral or written statements from the petitioner, the public, Village staff and its own members. The commission may approve, disapprove or postpone an amendment application. The commission shall notify the council, in writing, of its recommendation.

- (4) Village Council Review. The Council may, at its next regular meeting after receipt of the report and recommendation of the Planning Commission, set a date for a public hearing on the amendment request. In its deliberations on the matter, the council shall consider oral or written statements from the petitioner, the public, Village staff, the Planning Commission and its own members. The council may approve or disapprove the request by ordinance or postpone the request. A vote of two-thirds of all members of the council shall be required to reverse the recommendation of the Planning Commission.
- (5) Hearing and decision by the council of council initiated amendments. The Village Council may, from time to time, discuss and amend the planning code. If the matter has been acted on by the Village Council within the last 18 months, the council may choose to amend the ordinance through its own public hearing process, without changes being considered in public hearings of the Planning Commission. Upon approval of the amendment the council will notify the Planning Commission of the changes.

(Code 1985, § 10-2-4; Ord. No. 98-10, 5-12-98)

Sec. 54-60 VARIANCES

(d) Purpose.

- (1) The purpose of a variance is to vary or adjust the strict application of applicable requirements within this article when the strict application of the code cannot be accomplished due to unique characteristics affecting the land or improvements, or when the strict application of the code would result in a practical difficulty or unnecessary hardship that would deprive the owner of reasonable use of the property.
- (2) Variances should normally be limited to regulations pertaining to height or width of structures or the size of yard and open spaces where a departure from the literal interpretation of this article will not be contrary to the public interest or establish a precedent that would undermine the purpose and intent of this article as described in section 54-32.
- (3) Use variances shall not be permitted.

(e) Criteria for Decision

- (1) Variance applications will be granted if the following criteria are satisfied:
 - a. There are special circumstances applicable to a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic return on the property, or practical difficulties result from strict compliance with the minimum standards.
 - b. The Variance will not be materially contrary to the public safety, health, or welfare.
 - c. The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.
 - d. The Variance will not materially undermine the intent and purpose of this ordinance or the applicable zone district.
 - e. The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.

(f) Process

- (1) Application. A variance application shall be made on a form provided by the Planning Administrator. The application shall indicate the legal description of the property, the present zoning, and document rationale for why the application meets the above criteria.

(2) Administrative Review. The Planning Administrator will provide the Planning Commission with a staff report including an analysis of the approval criteria and a recommended action to aid the Planning Commission in making a decision.

(3) Planning Commission Review

- a. The Planning Commission shall make a decision based on whether the approval criteria have been met. The commission shall consider oral or written statements from the applicant, the public, Village staff and its own members.
- b. The Planning Commission may impose such additional conditions and safeguards as it deems necessary to protect the health, safety and welfare of the community.
- c. A variance shall not be approved except upon the affirmative vote of two-thirds of all the members of the Planning Commission present.
- d. The application may not be postponed more than two meetings in succession. The Planning Commission shall notify the council, in writing, of its recommendation.
- e. Appeals to Planning Commission determinations can be filed per #####code citation#####

(g) Blanket variance for existing structures.

- (1) Any structures, buildings or improvements which otherwise lawfully existed prior to June 28, 1988, are hereby automatically issued a blanket variance from the standard setback requirements of their zoning district unless the existing setbacks are three feet or less.
- (2) No fee or application shall be necessary for eligibility for a blanket variance. However, eligibility for a blanket variance for structures existing on a lot prior to June 28, 1988, does not in any way preclude or exempt any form of new construction proposed on the same lot after June 28, 1988, from the requirements and restrictions set out in this section.
- (3) Substandard lots are eligible for reductions in accordance with subsection 54-143(j).

(Code 1985, § 10-2-6; Ord. No. 2008-11, 10-14-08; Ord. No. 2019-02 , 3-12-19)

Sec. 54-61 CONDITIONAL USE PERMITS

(a) Purpose

- (1) The conditional use process is intended to be a way to evaluate and permit unique, unintended, potentially detrimental, or highly intensive land use types. The incorporation of a public hearing process and a deliberation of the request by the Planning Commission also allows for the identification, negotiation, and potential mitigation of negative impacts. In reviewing a conditional use proposal, the Planning Commission should weigh a comprehensive variety of potential positive and negative impacts resulting from an approval or denial.

(b) Applicability

- (1) Generally. Uses defined in ##### (section 54-91(c)) may be granted a conditional use permit.

- a. The permit may be issued for a specified period of time, with automatic cancellation at the end of that time unless it is renewed, or conditions may be applied to the issuance of the permit and periodic review may be required.
- b. The permit shall be granted for a particular use and not for a particular person.

(2) Legally Nonconforming Uses

- a. Reinstatement of legally nonconforming uses. Legally nonconforming uses, buildings, or structures which have been discontinued for a period that exceeds one year or which are otherwise prevented by this article from reinstating a verified, legal nonconformity shall be required to apply for and receive a conditional use permit.
- b. Legally nonconforming uses as defined in (####code citation####) are eligible to change their status from a legal nonconforming use into a conditional use by successfully proceeding through this section and being awarded a conditional use permit.

(c) Criteria for Review and Approval

- (1) An application for a Conditional Use Permit shall be approved if it meets the following criteria:
 - a. The use is listed in this article as a conditional use in the particular district in which it is proposed to be located or is a legally nonconforming use as defined by this article.
 - b. The requested use complies with the adopted community priorities related to the Comprehensive Plan and other applicable long-range plans.
 - c. The requested use will not create significant adverse impacts to the surrounding neighborhood, including health, safety and general welfare, existing and anticipated traffic conditions, and the impact upon the natural environment.

(d) Process

- (1) Application. An application for a conditional use permit shall include information as identified by the Planning Administrator necessary to evaluate the request.
- (2) Administrative Review. The Planning Administrator will provide the Planning Commission with a staff report including an analysis of the administrative review criteria and a recommended action to aid the Planning Commission in making a decision.
- (3) Planning Commission Review and Decision
 - a. The Planning Commission shall use the approval criteria to evaluate and debate the request.
 - b. Approval of conditional use permits shall require a two-thirds vote of the members of the Planning Commission present.
 - c. The Planning Commission may grant the application by motion, imposing such conditions and safeguards as it deems necessary, or it may deny the application.
 - d. If approved, the commission shall be required to make findings supporting its decision. If an application is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval exist.
 - e. No application for a conditional use permit which has been denied wholly or in part shall be resubmitted for a period of six months from the date of the order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission.
- (e) Notice of decision; contents of permit. The applicant shall be notified in writing of the action taken by the Planning Commission. If the application has been granted, the permit shall be issued upon the signature of the chairman of the Planning Commission and the Planning Administrator, and any conditions, automatic termination date, or period of review shall be stated on the permit.
- (f) Revocation. If the conditions and safeguards set by the Planning Commission are violated, the conditional use permit, after due process, may be revoked by a majority vote of the Planning Commission. Appeals may be made in accordance with section 54-62.

(Code 1985, § 10-2-8; Ord. No. 99-12, 7-27-99; Ord. No. 2008-11, 10-14-08)

Sec. 54-62 PLANNED UNIT DEVELOPMENT

(a) Purpose.

- (1) The Purpose of a planned unit development is to provide additional review steps for larger or more intensive projects expected to have an impact on the Village as a whole. The process also allows more appropriate development, design flexibility, encourages infill on vacant or underutilized land.

(b) Applicability.

- (1) Any development proposal which meets the requirements of section 54-XXXXX106, pertaining to planned unit development, shall be reviewed according to the provisions of this section.

(c) Criteria

- (1) Administrative Review Criteria – Staff will assess and recommend approval if the application either demonstrates compliance with applicable code requirements or provides a reasonable expectation that all applicable code requirements can be satisfied in the building permit and technical review processes. Such review shall include but is not limited to:
 - a. Relationship of the site plan elements to conditions both on and off the property.
 - b. Conformance to this article.
 - c. The impact of the plan on the existing and anticipated traffic and parking conditions.
 - d. The adequacy of the plan with respect to land use.
 - e. Pedestrian and vehicular ingress and egress.
 - f. Environmental and safety standards.
 - g. The presence or requirement of easements.
- (2) Planning Commission & Village Council Criteria – The Planning Commission and Village Council shall consider and weigh the following criteria in order to make a balanced and equitable decision:
 - a. Substantial compliance with the Comprehensive Plan and other applicable and identified long-range planning priorities such as those related to environmental protection, economic development, affordable housing, or public safety.
 - b. Sufficient compliance or a reasonable expectation that major code requirements can be satisfied in the building permit and technical review processes.
 - c. The effect of the proposal on the health, safety, and welfare of surrounding neighbors and users.
 - d. The effect of the proposal on the health, safety, and welfare of the applicant.

- e. The effect of the proposal on the health, safety, and welfare of Village residents.
- f. Impacts to particularly vulnerable or sensitive individuals or groups such as senior households, low-income households, and small businesses.

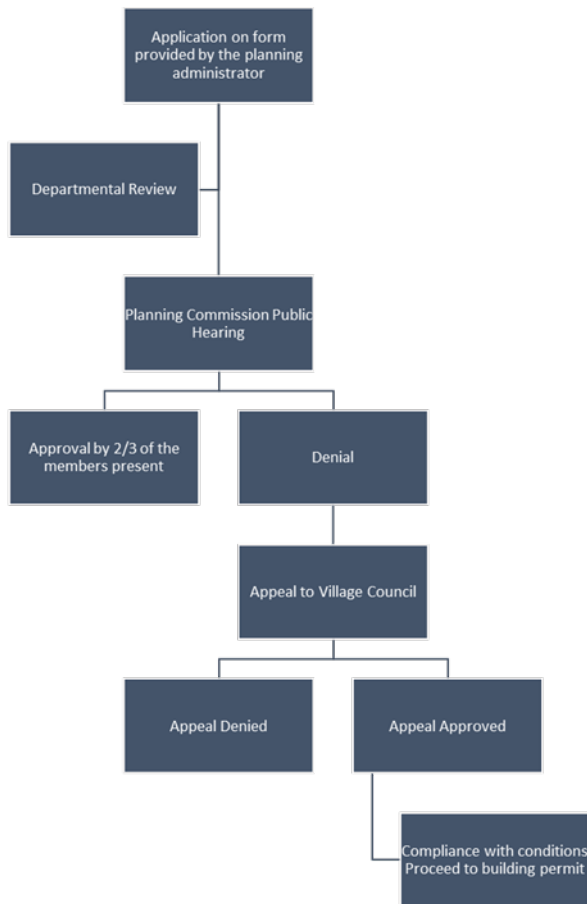
(d) Process

- (1) Pre-Application. Prior to submitting an application for a planned unit development approval, the applicant should meet with appropriate Village staff to discuss the development concept, the submittal requirements, and the review and approval process.
- (2) Application. An application for a planned unit development shall include information as identified by the Planning Administrator necessary to evaluate the request. Concept plan exhibits shall accompany the application. The concept plan shall be submitted at least ten days prior to a regularly scheduled Planning Commission meeting.
- (3) Concept plan. The concept plan stage of the process is intended to be a review of the conceptual, or preliminary project elements. This will typically include a site plan sketch, concept renderings illustrating potential design themes, approximate building massing, and/or approximate land use mixtures and intensities. The concept plan will typically not include technical design details.
 - a. Administrative Review. The Planning Administrator will provide the Planning Commission with a staff report including an analysis of basic administrative review criteria and a recommended action to aid the Planning Commission in making a decision.
 - b. Planning Commission review. The Planning Commission shall review the concept plan and shall determine whether the conceptual plan appears to be in conformance with approval criteria. The Planning Commission may instruct the applicant regarding features or design elements to be included in the preliminary development plan and what exceptions or variances to this article may apply.
 - c. Village Council Review. It is not required that the Village Council review the concept plan portion of a planned unit development, however, the applicant may request a concept plan review by the council following Planning Commission review and comment. The scope of review and comment by the council shall be the same as that of the Planning Commission.
- (4) Development Plan. The development plan is intended to be a review of general proposal details, similar in scope to the Site Development Plan Process.
 - a. Administrative Review. The Planning Administrator will provide the Planning Commission and Village Council with a staff report including an analysis of basic administrative review criteria and a recommended action to aid a decision. The Planning Administrator will assess and recommend approval if the application either demonstrates compliance with applicable code requirements or provides a reasonable expectation that all applicable code requirements can be satisfied in the final construction plan, during the building permit process, or through additional technical review processes.

- b. Planning Commission Review. The Planning Commission shall review the development plan and shall make a recommendation to the Village Council based on the approval criteria. The planning commission may instruct the applicant regarding features or design elements to be included in the development plan.
 - c. Village Council Review. Planned Unit Development requests will be reviewed by the Village Council in accordance with public hearing procedures unless withdrawn by the applicant. The Village Council shall review the recommendations from staff, from the Planning Commission, from the public, and from the applicant and make a final decision based on the approval criteria. The Village Council may instruct the applicant regarding features or design elements to be included in the final plan.
- (5) Final Construction Plan. The final construction plan is intended to be a review and approval by staff to ensure that the applicant has incorporated all technical requirements and any conditions or guidance requested by the Village Council. A final construction plan is not intended to be as comprehensive as a building permit but may include technical information or special considerations required to evaluate and work out necessary details prior to submitting for a building permit.

(Code 1985, § 10-2-9; Ord. No. 2008-11, 10-14-08)

Sec. 54-63 SITE DEVELOPMENT PLAN



(a) Purpose

(1) The purpose of a site development plan is to evaluate moderate and higher-intensity development proposals which will likely impact the neighborhood or areas of the Village. The review of a site development plan by the Planning Commission should assess and mitigate demonstrable adverse impacts of the development and weigh a comprehensive variety of potential positive and negative impacts resulting from an approval or denial. Approved proposals should, on the whole, contribute to - rather than detract from - the broader goals, policies, and objectives established by the Village.

(b) Applicability

(1) The following developments shall require site development plan approval before proceeding to building permit review:

a. Multi-family residential development which would result in more than five (5) dwelling units.

- b. New commercial, industrial, or manufacturing proposals of any size including hotels, motels, campgrounds, and RV parks.
- c. Additions to existing Commercial, Industrial, or Manufacturing uses of more than ten-thousand (10,000) square feet.

(c) Criteria For Review and Approval

- (1) Administrative Review Criteria – In reviewing a site development plan, staff will assess and recommend approval if the application either demonstrates compliance with applicable code requirements or provides a reasonable expectation that all applicable code requirements can be satisfied in the building permit and technical review processes. Such review shall include but is not limited to:
 - a. Relationship of the site plan elements to conditions both on and off the property.
 - b. Conformance to this article.
 - c. The impact of the plan on the existing and anticipated traffic and parking conditions.

- d. The adequacy of the plan with respect to land use.
- e. Pedestrian and vehicular ingress and egress.
- f. Environmental and safety standards.
- g. The presence or requirement of easements.

(2) Planning Commission Criteria & Considerations – In formulating a decision for a site development plan, the Planning Commission shall consider and weigh the following criteria and considerations in order to make a balanced and equitable decision:

- a. Substantial compliance with the Comprehensive Plan and other applicable and identified long-range planning priorities such as those related to environmental protection, economic development, affordable housing, or public safety.
- b. Sufficient compliance or a reasonable expectation that major code requirements can be satisfied in the building permit and technical review processes.
- c. The effect of the proposal on the health, safety, and welfare of surrounding neighbors and users.
- d. The effect of the proposal on the health, safety, and welfare of the applicant.
- e. The effect of the proposal on the health, safety, and welfare of Village residents.
- f. Impacts to particularly vulnerable or sensitive individuals or groups such as senior households, low-income households, and small businesses.

(d) Process

(1) Application: An application for a site development plan shall include information as identified by the Planning Administrator necessary to evaluate the request. The Planning Administrator should have an application checklist with informational items and submission requirements available to the public.

(2) Administrative Review & Staff Recommendation

- a. The applicant(s) and the Planning Administrator shall discuss areas of the code that are applicable to the proposed plan. The Planning Administrator shall provide in writing to the applicant a list of those items required under subsection 54-67(c) of this Code and other information that would help the Planning Commission make an accurate decision.
- b. The Planning Administrator will provide the Planning Commission with a staff report including an analysis of the administrative review criteria and a recommended action to aid the Planning Commission in making a decision.

(3) Planning Commission Review and Determination

- a. The Planning Commission shall consider oral or written statements from the applicant, the public, village staff members or its own members. It may question the applicant and

approve, deny or postpone the development proposal. The application may not be postponed for more than two regular meetings of the Planning Commission.

- b. Site development plan applications may be approved if the Planning Commission determines by motion that the proposed plan will not be overall detrimental to the health, safety or welfare of the community as evaluated by the applicable criteria and considerations.
 - c. Site development plan applications may be denied if the Planning Commission determines by motion that the conditions required for approval do not exist.
 - d. Appeals to Planning Commission determinations can be filed per #####code citation#####
- (4) Building permit applications pertaining to approved site development plans may be submitted and reviewed but shall not be issued prior to the end of the appeal period or if the determination by the Planning Commission is being appealed.

Sec. 54-64 ANNEXATION

- (a) Policy. All annexation to the village shall be in accord with the annexation statement of policy 85-2 adopted by the Village Council on October 29, 1985.
 - (1) Generally, the annexation of land shall not impose an economic burden on the village or result in a indirect subsidy of services by the village. Evidence shall be provided by the petitioner that existing infrastructure, including but not limited to streets, sewer and water lines, public facilities including fire stations and parks, and operating services such as fire, police and garbage collection, can accommodate potential development within the area to be annexed.
 - (2) Annexation agreements shall be entered into between the village and the petitioner requesting annexation to cover extension of streets, utilities, facilities and operation services for the area proposed for annexation.
 - a. Agreements shall include a provision by the petitioner of all improvements within the annexation area required to serve such area, including streets, water and sewer and public facilities; and a provision by the petitioner of water rights or arrangement for payment for water rights to be used.
- (b) Initial zoning. Simultaneous annexation petitions, the petitioner shall also submit an initial zoning request. Annexation and initial zoning shall be a joint and concurrent action and shall have final approval of the Village Council after recommendation by the Planning Commission. All newly annexed areas shall be considered to be in the R-1 district until otherwise classified.
- (c) Annexation petition. Initial submission of an annexation petition and plat must be accompanied by applicable fees and will include the following information as well as any details and materials determined by the Planning Administrator:
 - (1) A petition which shows the following:
 - a. Date.
 - b. Description of the property (certified by a New Mexico professional land surveyor).
 - c. Acknowledgement of property owners.
 - d. Name of property owners.
 - e. Address of property owners.
 - f. Signature of property owners, duly notarized.
 - (2) Annexation plat which contains:
 - a. Annexation name.
 - b. Acreage of the site to the nearest one-tenth acre.
 - c. Location map (inscribed on plat).

- d. Certification block for the mayor and village clerk.
 - e. Certification and recording block for the county clerk.
 - f. Certification block for the New Mexico professional land surveyor with seal and date.
 - g. Survey, scale and north arrow.
 - h. Plat boundary lines (bearings in degrees, minutes and seconds with distances in feet in hundredths).
 - i. Adjacent land conditions (within 150 feet).
 - j. Public rights-of-way existing on the site: Name, width and curve data.
 - k. Public rights-of-way abutting the site: Name, width and curve data.
- (3) Statement regarding the adequacy of infrastructure, public facilities and operational services to serve the area proposed for annexation.
 - (4) Copy of the proposed annexation agreement.
 - (5) Application for initial zoning, including fee.
 - (6) Site plan for proposed development, if any.
 - (7) Site plan for existing development.
 - (8) Statement regarding water rights.
- (d) Review procedure.
- (1) The flow chart included in this subsection details the village annexation process. In reviewing annexation petitions, the planning department looks at the proposed annexation in conjunction with the comprehensive plan and major transportation plan to determine the initial zoning classification and determine the need for dedication of public right-of-way.
 - (2) The infrastructure division looks at streets and utilities and the physical relationship of property proposed for annexation to determine the feasibility of serving the subject land. Other departments review the proposed annexation for general input on their particular service. Legal counsel will review the application and annexation agreement to determine compliance with applicable state statutes.
 - (3) The annexation petition shall also be distributed to the village public schools and all private utilities for review and comment.
- (e) ANNEXATION PROCESS
- (1) Petition signed by property owners is presented to Planning Administrator.
 - (2) Plat of survey and legal description signed by New Mexico professional land surveyor.

- (3) Annexation and initial zoning request reviewed by village staff (three weeks).
- (4) Notice of public hearing published 15 days prior to Planning Commission meeting.
- (5) Annexation and initial zoning are presented at Planning Commission public hearing for recommendation to Village Council.
- (6) Upon the commission's recommendation, both annexation and initial zoning ordinances are placed on the Village Council agenda (ordinances advertised 15 days).
- (7) If annexation is denied by council, process ends. Petitioner may appeal to district court.
- (8) If annexation is approved by council, annexation plat signed and filed with county clerk. Two filed copies returned to village. If zoning is denied, staff and property owners negotiate alternate zoning request. If initial zoning is approved, district is designated.
- (9) Annexation is deemed final and complete 30 days after filing.
- (10) Length of time for process: Three to six months.
- (11) Fees to be paid: Annexation fees plus initial zoning fees as listed in the fee schedule in appendix A to this Code.

(Code 1985, § 10-2-11)

Sec. 54-65 VACATION

- (a) Vacation criteria. Vacation (closing) is the method by which land used to provide access for the movement of people, goods, drainage, utilities (surface or subsurface), vehicles and services is closed to those uses. Anyone (including the village) may request a vacation. A vacation may be approved if it is determined that:
 - (1) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of that right; and
 - a. The public welfare is not served by retaining the way or easement; or
 - b. The development made possible by the vacation results in a net benefit to the public welfare which is clearly more beneficial to the public welfare than the minor detriment resulting from the vacation.
- (b) Partial vacation. Vacation may not result in closure of all uses. For example, public access may be closed while utility access through creation of a defined utility easement is retained.
- (c) Preapplication discussion. Applicant shall meet with the planning department prior to submitting a formal application.
- (d) Application contents. Applicant shall submit a formal application for vacation of right-of-way or easement to the planning department along with the appropriate application fee as set forth in Appendix A to this Code. Include the following items with the application:
 - (1) A right-of-way or easement survey meeting the standards of NMAC 12.8.2.13 (New Mexico Administrative Code) showing the area to be vacated and the surrounding properties.
 - (2) Certification that the applicant has notified all property owners within the notification area as set forth in section 54-40. Certification may be documentation provided by the postal service or a notarized statement from the applicant.
 - (3) The location, description and ownership of all utilities within the proposed vacation area.
 - (4) Statements from all utility companies stating their agreement to the proposed vacation and specifying any conditions of approval. These shall be on company letterhead with the title of the person signing the letter.
 - (5) Statements from property owners within the notification area identifying their position on the proposed vacation. These may be in letter form signed by the property owner. It is not necessary to obtain a letter from every property owner within the notification area. The intent of this requirement is to provide an early indication of either support for or objection to the proposed action. It is in the applicant's best interest to have met with or discussed the action with neighboring property owners and obtained their agreement to the proposed action prior to submitting a formal application to the village.
 - (6) In the event the parcel vacated exceeds the sum of \$2,500.00 in value based on the acquisition fee schedule set forth in Appendix A, the applicant shall also comply with the provisions of NMSA 1978 § 13-6-2 and the applicable regulation(s) of the state board of

finance (a copy of the statute and regulations are available in the village planning department).

- (e) Staff review of application and scheduling for review and action by planning commission. Planning department staff will review the application and advise the applicant when it is complete. The planning staff shall then prepare a staff report and forward a draft copy to the applicant for review. The application will be heard as a regular item at the next planning commission meeting scheduled at least 14 days after completion of the staff report.
- (f) Notification. The planning department staff shall provide notice of the planning commission meeting at which the application is scheduled to be discussed and voted on as specified in section 54-40.
- (g) Planning commission action. The planning commission shall hear the case and vote to recommend that the village council authorize the vacation and sale with conditions, vote to recommend that village council reject the vacation application or vote to forward the application to village council with no recommendation.
- (h) Village council action. The planning department shall forward the recommendation of the planning commission to the village clerk along with a request to schedule the application for review and action by village council. The village clerk, in consultation with the mayor and village manager, shall schedule the application for review and action by the village council. The application shall be heard as a regular item after at least 30 days public notice in newspapers of general circulation in the state. The planning staff shall provide the village clerk with all pertinent information, including minutes of the planning commission meeting at which the item was discussed and voted on, in sufficient time prior to the meeting at which the item will be discussed by village council so that the information may be included in the councilmembers' briefing books.
- (i) Finalization of vacation and sale. If village council votes to approve the vacation and authorize sale of the land, the planning department staff shall coordinate the preparation, signing and recording of the appropriate documents. The applicant's surveyor or engineer shall provide all required legal descriptions and drawings. For those vacations that will require state board of finance review prior to completing the vacation, the applicant or other eligible adjoining property owner shall obtain an appraisal and pay the appropriate acquisition fee as determined by the appraisal. Should the appraised value of the right-of-way be more than ten percent less than the value set forth in Appendix A, the village may obtain another appraisal and the value of the right-of-way shall be the average of the two appraisals. If the village decides not to seek a second appraisal, the value of the right-of-way shall be the average of the applicant's appraisal and the value set forth in Appendix A.

Sec. 54-66 ENFORCEMENT

(j)

DIVISION 7: DEVELOPMENT STANDARDS

Sec. 54-67 PURPOSE OF DIVISION.

The purpose of this division is to establish general development performance standards. These standards are intended and designed to ensure compatibility of uses, to prevent blight, to enhance the health, safety and general welfare of the residents of the community, and to preserve the natural environmental character of the village.

(Code 1985, § 10-5-1; Ord. No. 98-02, § 1, 2-10-98)

Sec. 54-68 RESIDENTIAL TERRAIN MANAGEMENT.

(a) *Purpose; intent.* The purpose of this division is to protect the natural environment of the village for social, economic and environmental purposes. To this end, it is the intent of the terrain management stands in this section to:

- (1) Preserve hillside features within the village in their natural state.
- (2) Encourage the planning, design and development of building sites in such a fashion as to provide the maximum safety and enjoyment, while adapting to, and taking advantage of, the best use of the natural terrain.
- (3) Encourage the maximum protection and retention of natural features such as drainage swales, streams, slopes, ridge lines, rock outcrops, scenic views and trees.
- (4) Minimize the need to pad or terrace building sites on hillsides.
- (5) Minimize the scarring of hillside areas.
- (6) Encourage restoration of disturbed areas to their natural state.

It shall not be the intent or purpose of this section to preclude development, but to ensure that development enhances rather than detracts from, or ignores, the natural topography, resources and amenities of the hillsides.

(b) *Applicability.* Development proposed or located on any residential site with average slopes in excess of 20 percent within the village shall be subject to the regulations and requirements of subsections (c) and (d) of this section. The following formula may be used to determine the average slope:

$S =$

Where:

S = Average percent of slope of the site.

I_c = Contour interval.

L_c = Total length of the contour lines within the site.

A = Area in acres of the site.

For subdivided lots of less than one half acre, average slope may be expressed as the ratio of rise or fall to a distance in percent (i.e., a one percent slope rises (or falls) one foot in 100 feet).

- (c) *Information required.* For proposed developments meeting the conditions of subsection (b) of this section, the following information shall be submitted. This information shall be in addition to any information required elsewhere in this Code.
- (1) A proposed grading plan including the following:
 - a. The proposed drainage plan shall address roof and driveway surfaces, final ground cover and erosion control.
 - b. Detailed plans of all drainage devices, walls, cribbing, dams or other protective devices to be constructed in connection with, or as part of, the proposed work.
 - c. The location of easements for drainage.
 - (2) A map showing:
 - a. Accurate contours at five foot intervals showing existing and proposed topography of the site and of the land within 100 feet of the site.
 - b. The location of observed drainage courses, springs, swampy areas and areas subject to flooding, landslides and mud flows.
 - (3) Additional information, as determined by the planning commission, which is deemed necessary to guarantee compliance with the purpose of this section.
- (d) *Development approval.* Approval for any development in areas meeting the guidelines established in subsection (a) of this section shall be granted in accordance with the development approval procedure set forth in subsection (b) of this section upon a finding that the grading and development plan is designed to meet such guidelines and the following standards:
- (1) Fill and excavation areas shall meet the following standards:
 - a. No organic material may be used.
 - b. Compaction shall be a minimum of 90 percent of maximum.
 - c. Steepness of finished slope shall not be greater than two feet horizontal to one foot vertical, unless a slope and retention plan certified by a qualified engineer is approved.
 - (2) The maximum percent of the site to be disturbed (area under building footprint, parking and driveway areas) shall be as follows:

Percent Average Slope	Disturbed Area Allowed
0—20	75
21—35	65
36+	55

Lots nonconforming as to lot size as defined under subsection 54-143(j)(1) may be allowed up to an additional ten percent of disturbed area. Applications for disturbed area increase will be considered under minor amendment procedures set forth under subsection 54-67(g). Disturbed area increase shall be the minimum necessary to allow reasonable development of the property. Disturbed area increase above ten percent shall require variance consideration by the planning commission.

(Code 1985, § 10-5-2; Ord. No. 98-02, § 1, 2-10-98; Ord. No. 2000-01, 3-14-00; Ord. No. 2019-02, 3-12-19)

Sec. 54-69 COMMERCIAL TERRAIN MANAGEMENT.

- (a) The provisions of this section shall apply to all commercial development.
- (b) Fill and excavation areas shall meet the following standards:
 - (1) No organic material may be used.
 - (2) Compaction shall be a minimum of 90 percent of maximum.
 - (3) Steepness of finished slope shall not be greater than two feet horizontal to one foot vertical, unless a slope and retention plan certified by a qualified engineer is approved. Provided, any slope with a steepness of 2 to 1 or greater shall have erosion control satisfactory to the commission.
- (c) Retention ponds or other suitable methods satisfactory to the planning commission shall be utilized to control drainage and erosion during construction.

(Ord. No. 2000-01, 3-14-00)

Sec. 54-70 FOREST MANAGEMENT.

- (a) *Purpose; intent.* The purpose of this section is to protect the natural environment of the village for social, economic and environmental purposes. To this end, it is the intent of the forest protection standards to:
 - (1) Provide for the sound management, protection and maintenance of trees and woodland located in the village in order to prevent unhealthy overgrowth, prevent excessive removal of vegetation, minimize damage from erosion and siltation, maintain or enhance appropriate wildlife habitat, reduce fire danger and ultimately preserve the economic viability of the village, which is dependent upon the proper management of the natural resources in the area and is in the interest of the health, safety and general welfare of the residents of the village.
 - (2) Manage and protect the forest areas of the village to restore their health, preserve and protect old and large trees, and facilitate an added value concept to enhance aesthetics and property values.
 - a. Old or large trees shall be defined as any specie of live tree 20 inches or greater in diameter measured 4.5 feet from the ground (DBH).
 - b. The planned removal of old or large trees must be reviewed and a permit issued by the director of forestry prior to removal.
 - c. Old or large trees shall be subject to the provisions of subsection (c)(4) herein, relating to protected root zone.
- (b) *Administration.* The director of forestry or his duly authorized representative shall have responsibility for administration of this section.
- (c) *Fuels management approval.*
 - (1) Residential fuels management. Inspection by the forestry department and certification is required on all properties. Fuels management shall be in accordance with the provisions of Section 42-80. Properties are required to maintain a forested appearance with a minimum density of 40 trees per acre prorated to the size of the lot excluding area covered by structures, driveways, and parking areas.
 - (2)

- (4) *Protected root zone.* Trees to remain for consideration according to the approved site plan shall be protected above and below ground from damage caused by construction and site development activities as provided herein:
- a. The protected root zone shall be defined as a horizontal radius distance from the trunk of the tree. The distance varies by tree size, subject to the following minimums:

Tree height in feet	Horizontal radius in feet
Less than 10	4
10—20	6
21—30	8
31—40	12
41—50	16
51—60	20
Greater than 60	24

- b. No trenching, cut or fill activities, compaction or other ground disturbing activities may intrude closer than 50 percent of the horizontal radius.
 - c. Paving and other non-pervious surfacing may not reduce the protected root zone more than 30 percent of the horizontal radius.
 - d. Temporary fencing or equivalent protective measures shall be installed around all trees to be considered for minimum basal area requirements within 30 feet of ground disturbance. The temporary fencing shall be installed at the outer limit of the protected root zone. This protection shall remain in place until all construction and site development activities are complete or removal is approved by the director of forestry.
- (5) *Standards for tree removal activities:*
- a. All chainsaws weed eaters and like equipment with two-cycle motors used in the removal of trees, slash and debris shall be equipped with spark arresters.
 - b. It is the responsibility of the property owner to provide for the disposal of all of the slash in a legal and appropriate manner. Failure to provide for disposal will subject the owner to the nuisance provisions of this Code.
 - c. Activity slash from all species to remain on site for firewood must comply with Section 42-80 in terms of size and spacing. In addition, each stack of green wood shall be covered with six ml (minimum thickness) clear/translucent plastic or the like for a minimum of ten months to minimize bark beetle habitat and infestation.
 - d. Individuals or contractors removing trees will be fully responsible for any damage to public and private property or utilities.

(6) *Utility easements.*

- a. *Rights and duties of utility franchisees.* To provide for the general safety of the public, the utility franchisees of the village shall have the right and responsibility to maintain unobstructed utility easements or to cut, trim, thin, and control the growth of trees and shrubbery, within, near, or above the public right-of-way and private utility easements in the village that may interfere with, threaten or endanger the operation of the franchisee's overhead lines. Trees will not be topped but shall be completely removed.
- b. *Rights and duties of property owners.*
 1. The property owner is primarily responsible for maintaining the low vegetation and other flammable matter in the private easements and rights-of-way in such a manner that the low vegetation and other flammable matter will not be a potential fire hazard.

A property owner who refuses access to the utility easement by a utility franchisee shall be solely responsible for the cost to provide for an unobstructed utility easement.

- (3) *Property owner responsibilities.* Every property owner within the village limits shall maintain their property in accordance with section 42-80 of this Code. If a property owner places green waste on the public right-of-way for grapple pick-up, the property owner shall separate the green waste into two categories: 1) six inches or greater in diameter; or 2) less than six inches in diameter. Any green waste that the property owner places on the public right-of-way for grapple pick-up shall be no greater than six feet in length. Any green wood on the property shall be kept in accordance with section 42-80 of this Code and shall be covered with six ml (minimum thickness) clear/translucent plastic for a minimum of ten months to minimize bark beetle habitat and infestation.

(Code 1985, § 10-5-3; Ord. No. 96-10, § II, 7-30-96; Ord. No. 99-19, § 1, 10-26-99; Ord. No. 2002-07, 6-25-02; Ord. No. 2004-05, 5-11-04; Ord. No. 2013-06, 7-9-13)

Sec. 54-71 SCREENING.

- (a) *Multi-density and medium-density mobile home developments.* All R-3, R-4 and M-2 district principal and accessory uses, except signs, which are situated on a parcel which abuts a residential district other than R-3, R-4 or M-2, respectively, shall be screened from such district by an approved wall, fence or landscaping not less than six feet in height above the level of the adjacent property at the district boundary. Walls or fences of lesser heights or planting screens may be permitted by the village if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote the use and enjoyment of the properties within the adjacent residential district, or there is a finding that screening of the type required by this article would interfere with the provision of adequate amounts of light and air to such properties. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site, and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed. Vegetative screening shall meet the requirements of Section 42-80 Fuels Management Standards. This subsection shall not apply when the apartment development is adjacent to an already-existing nonresidential use (i.e., a school or church) in a residential district. Such exception to the screening requirement shall only be allowed along that property line between the apartment development and the nonresidential land use.
- (b) *Business and industrial developments.* All principal and accessory uses, except signs, which are situated on a parcel which abuts a residential district shall be screened from such district by an approved wall, fence or landscaping not less than six feet in height above the level of the residential property at the district boundary. Walls or fences of lesser heights or planting screens may be permitted by the village if there is a

finding that the nature or extent of the use being screened is such that a lesser degree of screening will adequately promote the use and enjoyment of the properties within the adjacent residential district, or there is a finding that screening of the type required by this article would interfere with the provision of adequate amounts of light and air to such properties. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site, and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

Vegetative screening shall meet the requirements of Section 42-80.

(Code 1985, § 10-5-4)

Sec. 54-72 LANDSCAPING.

- (a) *Purpose.* Landscaping requirements as set forth in this article have been established to encourage quality development within the village; to provide a smooth transition between adjoining properties; to screen service yards, parking lots and other areas which tend to be unsightly; to facilitate the buffering of one land use from other land uses; to encourage harmonious relationships between buildings which are part of one development and buildings located on abutting properties; to provide open space and recreational areas to serve the needs of the residents of the village; to soften the effect of development; to improve erosion and stormwater runoff control; to reduce the particulate matter in the air; to encourage a sense of commitment to the village and its residents on the part of the developers; and to provide for the health, safety and general welfare of the residents of the village.
- (b) *Definition.* Landscaping, for purposes of this article, shall be defined as including any or all of the following:
- (1) Naturally existing vegetation;
 - (2) Lawn or grass areas;
 - (3) Trees, shrubs, ground cover and other plantings;
 - (4) Sprinkler or irrigation systems;
 - (5) Decorative rock, natural or manmade;
 - (6) Decorative lighting;
 - (7) Benches, tables, fountains, planters or other similar outdoor furniture;
 - (8) Decorative fences, and detention and retention ponds;
 - (9) Waterfalls and manmade streams; and
 - (10) Berms or mounds.
- (c) *Landscaping plan.*
- (1) A landscaping plan shall be submitted in conjunction with any required site plan, and shall be reviewed and approved, denied or modified in conjunction with the site plan. All exposed ground areas surrounding or within a principal or accessory use, including street boulevards, which are not devoted to drives, parking lots, sidewalks, patios or other such uses shall be landscaped.
 - (2) When possible, areas of any particular site allocated to landscaping shall be located on that site in such a way as to provide substantial benefit to the general public as well as to the site itself.
 - (3) Landscaping shall also be provided within parking lots in a manner which will serve to visually reduce the expanse of paved areas consistent with subsection 54-141(b)(1)c. and d.
- (d) *Minimum landscaping.*

- (1) *Single family residential*
 - a. All areas not used for buildings, parking, drives or other impervious materials, or for storage of materials, or left in a natural and undisturbed state, shall be landscaped according to an approved landscape plan.
 - b. For townhouses, landscaping shall be required only in the front yards, side yards and unpaved rights-of-way.
- (2) *Multifamily, commercial and industrial developments.* All areas in front and corner side yards not used for parking, drives or other impervious materials or storage shall be landscaped according to an approved landscape plan based on the standards of subsections (3) and (4) below.
- (3) *Planting of trees.*
 - a. Perimeter landscaping: Each commercial or industrial application shall provide for one tree and ten shrubs for every 1,500 square feet of lot area or a portion thereof not utilized for structures or vehicular use areas to be located within the perimeter of the site and around structures. This requirement shall be in addition to landscaping required by subsection b. below. Trees being retained on site to meet the standards of sections 54-133 and 42-80, may be credited towards meeting minimum tree numbers of this section.
 - b. Replacement trees required to be installed to meet the basal area standards of sections 54-133 and 42-80, shall be of the species listed in the "Village Approved Replacement Tree List".
 - c. Parking lot landscaping: Trees shall be provided for all parking lot areas. A minimum of one tree shall be provided for each ten parking spaces. Trees shall be distributed throughout the lot to maximize shading and eliminate large expanses of unbroken paved parking areas. Not less than six percent of the interior of a parking lot shall be landscaped with trees, shrubs or other durable landscaping materials consistent with the requirements of subsection 54-141(b)(1) addressing terminal and landscape islands.
 - d. Trees wells to be constructed to protect existing trees on site shall be built so that the outer edge of the well is no closer to the trunk than the drip line of the tree as determined by the village forester. A minimum size tree well of four feet in radius shall be required for all new tree plantings. The tree well shall constructed according to standards set by the village forestry department, and will also incorporate appropriately amended soils to encourage proper growth. Paving shall not be maintained closer than four feet to existing established or newly installed trees.
 - e. Trees to be installed pursuant to this chapter shall be a minimum size of two inches in diameter as measured at 4½ feet above ground.
 - f. The primary means of irrigating all required landscaping for shall be thru the use of a drip irrigation system.
 - g. The use of cisterns to collect rain water shall be incorporated into all new site development applications, but excluding single-family residential units. While cisterns are not required for single family residential units, the use of these features will be for encouraged.
 - h. Landscape plans shall be based on a modified xeriscape concept consistent with the village's "xeriscape standards". This shall mean that landscape plans shall incorporate drought-tolerant plant species and the use of drip-irrigation systems.
- (4) *Peripheral landscaping for parking lots.* Peripheral landscaping shall be required along any side of all parking lots. A landscaping strip consistent with the provisions of the property's zoning district shall be

provided between the parking area and adjoining property. Where a commercial parking area adjoins a residential district, a wall, or other permanent landscaping barrier shall be installed. The height of such landscaping barrier shall be not less than six feet.

- (e) *Installation or financial guarantee required prior to issuance of occupancy permit; maintenance guarantee.*
 - (1) All landscaping materials and equipment as provided for on the approved landscape plan for any residential, business or industrial development, or in the case of phased development, for the particular phase, shall be installed prior to the issuance of any occupancy permit, unless a financial guarantee in the amount of 150 percent of the cost of the materials and labor is submitted to the village. Financial guarantees shall be of the types and forms provided in section 54-286.
 - (2) Upon completion of the landscaping requirements as provided on the approved landscape plan, the financial guarantee shall be released except for a portion in the amount of 20 percent of the cost of materials and installation, which shall be retained for a warranty period of one year as a guarantee for proper installation and maintenance. Following the warranty period, the remaining 20 percent guarantee shall be released upon a finding that installation and maintenance has occurred as per the approved landscape plan.
- (f) *Maintenance standards; prohibited uses.* All landscaped areas shall be kept neat, clean, uncluttered, and consistent with the approved landscape plan in terms of landscape materials for the life of the approved development order. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies or merchandise.
- (g) *Protection of existing trees during construction.* During the installation and site work, all activities shall remain consistent with the provisions of section 54-133.
- (h) *Inspection fee.* A landscaping inspection fee as set forth in Appendix A to this Code shall be assessed and paid with the building permit fee. The landscaping inspection fee shall cover the cost of inspection after completion of installation of the landscaping and a follow-up inspection at the end of the warranty period. An additional fee shall be charged if more than one re-inspection is required either during initial installation or at the end of the warranty period.
- (i) *Maintenance of detention/retention facilities.* On-site private detention/retention facilities, including ponds, cisterns, rain barrels and related pumps and piping, that were installed as mandated by a condition of approval, final plat requirement, approved site plan, approved construction plans, development order or development agreement shall be maintained by the property owner to insure that they function as designed. The property owner shall, at least annually, remove any accumulated dirt and debris from detention/retention facilities, clean piping of obstructions and service mechanical equipment per manufacturer's instructions.
- (j) *Inspection of detention/retention facilities.* Once every two years or after any officially recognized flood event the village may inspect the private detention/retention facilities to insure that they are in working order and provide the capacity for detention/retention as originally designed. The village shall charge a fee for the inspection as set forth in appendix A to this Code.
- (k) *Failure to maintain detention/retention facilities.* If, at any time, there is evidence of failure to maintain the private detention/retention facilities, the code enforcement officer or planning administrator shall notify the property owner in writing. The notification shall set a time limit not to exceed 90 days for bringing the facilities into compliance. Should the property owner fail to comply with the ordered repairs, the village may make the needed repairs and lien the property.
- (l) *Detention/retention facility security.* The planning commission shall require that any detention/retention facility located on private property be secured with appropriate barriers or alternate safety measures.

(Code 1985, § 10-5-5; Ord. No. 2006-09, 10-31-06; Ord. No. 2007-04, 4-24-07; Ord. No. 2007-09, 9-11-07; Ord. No. 2009-02, 1-13-09)


Sec. 54-73 USE OF CERTAIN AREAS AND STRUCTURES AS DWELLING UNIT PROHIBITED.

No cellar, garage, tent, trailer, basement with unfinished structure above, or accessory building shall at any time be used as a dwelling unit. The basement portion of a finished home may be used for normal living, eating and sleeping purposes, provided it is properly permitted, approved and meets the requirements of section 22-31 of this ordinance and any other applicable requirements of this article or this Code.

(Code 1985, § 10-5-6; Ord. No. 2019-02 , 3-12-19)

Sec. 54-74 ACCESSORY STRUCTURES, USES AND EQUIPMENT.

- (a) An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a covered walkway or other similar structure.
- (b) Accessory structures and garages in residential districts shall not be located within a utility easement.
- (c) Construction of more than one accessory detached private garage structure for each dwelling shall not be permitted.
- (d) No accessory building shall be constructed or developed on a lot prior to the time of construction of the principal building to which it is accessory, except by conditional use permit.
- (e) Accessory structures in commercial or industrial districts shall be as required.
 - 1. Shall not exceed the height of the principal building except by conditional use permit.
 - 2. Must be located any place to the rear of the principal building.Exception: C-4 and I-1 districts.
- (f) Accessory structures that exceed 120 square feet shall meet the requirements of section 22-31 and other applicable sections of this article or this Code.
- (g) Carport(s) shall have foundations and be constructed per section 22-31 of this Code and shall be characteristic of building types within the area.
- (h) Accessory structures shall not require land development or construction permits when all the following are meet:
 - a. Does not exceed 120 square feet, and maximum ten-foot eave height and is a minimum of ten feet from other structures.
 - b. Does not encroach less than five feet of side or back property lines.

Exceptions:
 - I. Schools and civic, cultural and religious institutions accessory structures shall have setbacks of 50 feet minimum on all sides.
 - c. Does not encroach less than 20 feet of front property line.Exceptions:
 - I. Schools and civic. Cultural and religious institutions accessory structures shall have setbacks

of 50 feet minimum on all sides
II. C-1, C-2, C-3 and I-1 district requirements apply as required.

- d. Only one exempted accessory structure on property meeting the requirements of this article shall be permitted. Additional similar structures shall meet the requirements of section 22-31 and other applicable sections of this article or this Code.
- e. Is limited to storage structures, tool houses, play houses, green houses, sheds, agricultural structures and other similar uses.

(Code 1985, § 10-5-7; Ord. No. 2019-02 , 3-12-19)

Sec. 54-75 FENCES.

- (a) *Building permit; site development approval.* No person, except on a farm and as related to farming, shall hereafter construct or cause to be constructed or erected within the village, in any residential district, any fence without first making an application for and securing a building permit. Site development approval and building permits shall be obtained for all fences in C-1, C-2, C-3, C-4 and I-1 districts.
- (b) *Location.* All fences shall be located entirely upon the private property of the person constructing or causing the construction of such fence, unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties.
- (c) *Construction and maintenance; restricted materials; nonconformities; height.*
 - (1) *Construction and maintenance.* All fences shall be constructed in a substantial, workmanlike manner of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair, damage or unsightliness, or constitute a nuisance, public or private. Any such fence which is or has become dangerous to the public safety, health or welfare, or has become unsightly through improper maintenance or neglect, is a public nuisance, and the planning administrator shall commence proper proceedings for the abatement thereof.
 - (2) *Restricted materials.* Site development approval is required by the planning commission for all installations of barbed wire and/or razor wire. Use shall be restricted to properties where necessity has been shown that security is required to protect hazardous processing, products, equipment, storage or attractive nuisances or in situations of exceptional need. Barbed wire and razor wire are prohibited fencing materials except under one of the following conditions:
 - a. Public and private utilities may install barbed wire or razor wire at the top of fencing.
 - b. Commercial and industrial development may install barbed or razor wire at the top of fencing.
 - c. Buildings and properties which involve attractive nuisances may install barbed wire at the top of fencing.
 - (3) *Effective date; nonconforming fences.* Any fencing existing on the effective date of the ordinance from which this section is derived, September 24, 1994, which does not comply with the regulations of the district in which it is located, shall be deemed a lawful nonconforming fencing installation. All new or replacement fencing shall fully conform to regulations established in this section.
 - (4) *Measurement of height.* The height of any fence shall be calculated to the uppermost points as follows:
 - a. In required yards abutting a street, the height of the fence shall be the total effective height

- measured from the finished grade on the side nearest the street.
- b. In other required yards, the height of the fence shall be the total effective height above the finished grade measured on the side nearest the abutting property.
 - c. On property lines, the height may be measured from the finished grade of either side when the abutting property owners are in joint agreement, with such agreement submitted in writing.
- (d) *Residential districts.* In all parts of the village zoned residential, no fence shall be erected or maintained more than eight feet in height, and also:
- (1) Solid fences, walls or hedges which are parallel or approximately parallel to the front property line shall be set back from the front line a minimum of five feet.
 - (2) On corner lots in all districts, no fence or planting in excess of 30 inches above the street centerline grade shall be permitted within a triangular area defined as follows: measured 30 feet along the front and side street lines of a corner lot from the intersection of the property lines of such lot and a line connecting points 30 feet distant from the intersection of the property lines of such lot.
 - (3) In those instances where a fence is erected as an enclosure which restricts access from the front to the rear yard, a gate, identifiable collapsible section, or other such means of recognizable ingress shall be installed, shall remain unobstructed and shall measure a minimum of three feet in width. The location of such ingress points shall be positioned at any point paralleling the front lot line between the side lot property line and the principal structure.
- (e) *Business and industrial fences.* Fences in all commercial and industrial districts shall not exceed 12 feet in height, except that boundary line fences abutting residential districts shall not be greater than eight feet in height.
- (f) *Finished side to face adjoining property.* In all districts, any fence so constructed as to have only one elevation "finished," which shall be defined as not having its supporting members significantly visible, shall be erected such that the finished elevation of the fence is exposed to the adjacent property.
- (Code 1985, § 10-5-8)

Sec. 54-76 RETAINING WALLS.

- (a) *Site development approval.* No person shall construct or cause to be constructed or erected along any property lines within the setback areas within the village, any retaining wall above four feet in height without first obtaining site development approval from the planning commission, except that all retaining walls within the floodplain area shall be approved in accordance with article IV of this chapter. Site development plans for individual retaining walls on previously developed lots may be approved by the planning administrator subject to concurrence by the chairman and vice-chairman of the planning commission. Following site development plan approval, a building permit shall be obtained from the building official.
- (b) *Location.* All retaining walls shall be located entirely upon the private property of the person constructing or causing the construction of such retaining wall, unless the owner of the adjoining property agrees, in writing, that such retaining wall may be erected on the division line of the respective properties. The planning administrator may require an applicant for a retaining wall permit to establish the boundary lines of his property by a survey thereof, to be made by a registered land surveyor.
- (c) *Construction and maintenance.* All retaining walls shall be constructed in conformance with applicable building codes in a substantial, workmanlike manner and of substantial material reasonably suited for the

purpose for which the retaining wall is proposed to be used. All retaining walls shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such retaining wall which is or has become dangerous to the public safety, health or welfare is a public nuisance, and the planning administrator shall commence proceedings for the abatement thereof.

- (d) *Maintenance easement.* In any instance where a retaining wall is constructed within four feet of a rear or interior side lot line, the property owner shall be required to obtain an easement from the adjoining landowner allowing access for construction and maintenance of the retaining wall. Such easement shall be presented to the planning administrator for inspection prior to issuance of the necessary building permit.

(Code 1985, § 10-5-9)

Sec. 54-77 SETBACK AND HEIGHT ENCROACHMENTS, LIMITATIONS AND EXCEPTIONS.

The following shall be considered as permitted encroachments on setback and height requirements, except as otherwise provided in this article:

- (1) *Permitted encroachments in any yards.* The following are permitted in any yards: posts, off-street open parking spaces, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, flagpoles, ornamental features, open fire escapes, sidewalks and fences, except as otherwise provided in this article; also, yard lights and nameplate signs in residential districts, trees, shrubs, plants, floodlights or other sources of light illumination, and authorized lights or light standards for illuminating parking areas, loading areas or yards for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.
- (2) *Permitted encroachments in side and rear yards.* Balconies eight feet above grade may extend into the yards to within five feet of a lot line, provided the balconies do not extend over nonresidential driveways. Detached outdoor picnic shelters, open arbors and trellises may extend to within five feet of a side or rear lot line, except that no such structures shall exceed 500 square feet. Recreational equipment, picnic tables and apparatus needed for the operation of active and passive solar energy systems are permitted encroachments.
- (3) *Permitted encroachments in rear yards.* The following are permitted in rear yards: laundry drying equipment; patios; covered porches; breezeways and detached outdoor living rooms may extend 20 feet into the rear yard but not closer than ten feet to the rear lot line.
- (4) *Exemptions from height limitations.* Height limitations shall not apply to church spires, belfries, cupolas and domes, monuments, chimneys and smokestacks, flagpoles, public and private utility facilities, transmission towers of commercial and private radio broadcasting stations, television antennas, parapet walls extending no more than four feet above the limiting height of the building (except as otherwise provided in this article), and solar energy collectors and equipment used for the mounting or operation of such collectors.
- (5) *Exemption from building setback requirements for buildings with party walls.* Subject to regulations in section 22-31 and as required by other applicable sections of this article or this Code, buildings may be excluded from side and rear setback requirements provided party walls are used and if the adjacent buildings are constructed as an integral unit.

- (6) *Covered decks, porches and breezeways in front yards.* Covered decks, porches and breezeways in R-1, R-2, M-1 and M-2 districts may extend into the front yard, but not closer than 15 feet to the front property line, provided that they are not enclosed.

(Code 1985, § 10-5-10; Ord. No. 2017-07 , § 3, 6-13-17; Ord. No. 2019-02 , 3-12-19)

Sec. 54-78 OFF-STREET PARKING FACILITIES.

(a) *General provisions.*

- (1) *Calculation of floor area.* The term "floor area," for the purpose of calculating the number of off-street parking spaces required, shall be determined on the basis of the exterior area dimensions of the building, structure or use times the number of floors, minus ten percent, except as may be otherwise provided or modified in this article.
- (2) *Change of use or occupancy of buildings.* Any change of use or occupancy of any building, including additions thereto requiring more parking, shall not be permitted until such additional parking spaces as required by this article are furnished. This provision does not apply to buildings with principle permitted uses in C-1, C-2, or C-3 districts that existed prior to August 1, 1999.
- (3) *Use of parking facilities accessory to residential use.* Off-street parking facilities accessory to a residential use shall be utilized solely for the parking of licensed and operable passenger automobiles and trucks, with no trucks exceeding 5,500 pounds, and recreational vehicles and recreational equipment. Under no circumstances shall required parking facilities accessory to a residential structure be used for storage of commercial vehicles or equipment or for the parking of automobiles belonging to the employees, owners, tenants or customers of business or manufacturing establishments.

(b) *Design standards.*

(1) *Stall and aisle dimensions; traffic flow.*

- a. Parking stalls and aisles shall be provided according to the following minimum requirements in all districts:

Parking Angle	Stall Width (feet)	Stall Base (feet)	Stall Depth (feet)	Width of Aisle	
				One-Way Traffic (feet)	Two-Way Traffic (feet)
30°	9	18	18.2	15*	25
45°	9	6.5	19	15*	25
60°	9	10.5	22	20	25
75°	9	9.5	21.5	20	25
90°	9	9	20	20	25

Parallel parking	9	9	22	15*	25
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*Except where needed as a fire lane, in which case a 20-foot minimum is required.

- b. All angle parking, except 90-degree and parallel parking, shall have aisles designed for one-way traffic flow only, except that two-way traffic is permitted in designs approved by the planning administrator and Public Works Department. All parking designs shall have ingress and egress to a public street. There shall be no through traffic access to adjoining properties or private easements, except within designated shopping centers.
- (2) *Parking within structures.* The off-street parking requirements may be furnished by providing spaces so designed within the principal building or a structure attached thereto; however, no building permit shall be used to convert the parking structures into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this article.
 - (3) *Circulation; backing onto public street.* Except in the case of single-family, two-family, townhouse, three-family and four-family dwellings, parking areas shall be designed so that there is circulation between parking bays and not upon a public street or alley. Except in the case of single-family, two-family, townhouse, three-family and four-family dwellings, parking area design which requires backing into the public street is prohibited.
 - (4) *Preservation of off-site parking.* When required accessory off-street parking facilities are provided elsewhere than on the lot with the same ownership or control, either by deed or longterm lease, as the property occupied by such principal use, the owner of the principal use shall file a recordable document with the village and county clerk requiring the owner and his heirs and assigns to maintain the required number of off-street spaces during the existence of the principal use.
 - (5) *Driveways required.* All off-street parking spaces shall have access from driveways and not directly from the public street.
 - (6) *Distance of access points from street intersections.* No access point (measured to the middle of the driveway) shall be located less than 40 feet in residential districts, 150 feet in commercial districts, or 150 feet in industrial districts, from the intersection of two public street rights-of-way.
 - (7) *Length of parallel parking spaces.* Parallel parking spaces shall be a minimum of 22 feet in length.
 - (8) *Approval of driveways; sight line triangle.* All drive accesses shall be approved by the planning commission for width and location. A minimum sight line triangle measured 20 feet along the public right-of-way line and ten feet along the edge of the access drive shall be provided on both sides of a driveway access.
 - (9) *Distance between driveways.* Driveway access openings on a public street, except for single-family, two-family and townhouse dwellings, shall not be located less than 40 feet from one another as measured from inside of drive to inside of drive.
 - (10) *Number of driveways.* Each property shall be allowed one drive access for each 100 feet of street frontage. Single-family uses shall be limited to one drive access per property. These conditions shall apply unless otherwise granted approval by the planning commission.
 - (11) *Requirements for specific types of development.*
 - a. *Commercial and industrial development.* The grade of ingress and egress driveways and parking lot aisles shall not exceed 12 percent. All driveways shall provide and maintain a six-

- foot section from the edge of the traveled way with approximately a three-inch dip to the center (eight percent grade) from both directions. The dip section shall be paved with asphalt or concrete for the full driveway width. The base shall be a minimum of four inches with either 1½ inches of asphalt or four inches of concrete paving. The state highway and transportation department may require a lesser grade for driveways to N.M. Highway 48 and 70. Commercial and industrial development subject to state highway and transportation department approval shall provide evidence of approval by the department prior to issuance of a village permit. Drainage pipe under driveways, where required, shall be a minimum of 18 inches in size. Parking area grades shall not exceed three percent.
- b. *Multifamily residential development.* The grade of ingress and egress driveways and parking lot aisles shall not exceed 12 percent. All driveways shall provide and maintain a six-foot section from the edge of the traveled way with approximately a three-inch dip to the center (eight percent grade) from both directions. The dip section shall be paved with asphalt or concrete for the full driveway width. The base shall be minimum of four inches with either 1½ inches of asphalt or four inches of concrete paving. Multifamily development subject to state highway and transportation department approval shall provide evidence of approval by the department prior to issuance of a village permit. Drainage pipe under driveways, where required, shall be a minimum of 18 inches in size. Parking area grades shall not exceed three percent.
- c. *Single-family and duplex development.* Ingress and egress drives shall be provided and maintained to give a clear sight line for street access. Drainage ditch, driveway profile or surfacing shall be so constructed so that surface water from the driveway or lot will not wash dirt, gravel and debris onto the traveled roadway. Driveways that wash dirt, gravel or debris onto the traveled roadway shall be considered a nuisance under subsection 38-62(a)(12). Driveways on the downhill side of the street shall be constructed to prevent erosion of the driveway or adjoining private property by runoff from the street. Driveways will be inspected by the street department inspector during final inspection of the residence for compliance and be required for a certificate of occupancy. The drainage pipe under the driveway, where required, shall be not less than 18 inches in size. Development subject to approval by the state highway and transportation department shall provide evidence of approval of such department prior to the issuance of a village permit.
- d. *Variances.* Variances from requirements of subsections (b)(11)a and b of this section shall be requested in connection with the application for site plan approval (see section 54-67). Variances from the requirements of subsection (b)(11)c of this section shall be considered under section 54-67(f) and approved only on favorable finding of the planning administrator with approval by the chairman and vice-chairman of the planning commission. Variance requests not approved under section 54-67(f) will automatically be appealed to the full planning commission.
- (12) *Surfacing.* All areas intended to be utilized for parking space and driveways shall be surfaced with materials suitable to control dust and drainage. Plans for paving and drainage of driveways and stalls for five or more vehicles shall be submitted to the planning commission for review, and the final drainage plan shall be subject to the written approval of the Public Works Department.
- (13) *Striping.* Except for townhouses and single-, two-, three- and four-family dwellings, all parking stalls shall be marked with painted lines not less than four inches wide. Where possible, hairpin striping shall be used.

- (14) *Lighting.* Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses and public rights-of-way and shall be in compliance with this article.
 - (15) *Signs.* No sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking lot. All signs shall conform to division 5 of this article.
 - (16) *Perimeter curb and gutter.* Except for townhouses and single-, two-, three- and four-family dwellings, all open off-street parking areas and driveways shall have a perimeter curb and gutter around the entire parking lot built according to standards provided by the planning administrator.
 - (17) *Vehicles not to protrude over property lines.* All of such parking stalls which abut property lines shall be designed and constructed so that parked vehicles will not protrude over property lines.
 - (18) *Drainage.* Runoff from new multifamily and commercial development areas after the site is improved shall not exceed the prior runoff from the site when unimproved. On-site delay or interception of additional runoff by vegetation, temporary ponding, percolation pits or other approved methods shall be used to minimize any adverse effect on other properties.
- (c) *Maintenance.* It shall be the joint and separate responsibility of the lessee and owner of the principal use or building to maintain, in a neat and adequate manner, the parking space, accessways, striping, landscaping and required fences.
 - (d) *Use of parking areas.* Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, distribution of public relations material, or storage of inoperable vehicles.
 - (e) *Number of spaces required.* The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses:
 - (1) Dwellings:
 - a. Single-family, two-family, townhouse, three-family, four-family and multiple-family dwellings: Two spaces per unit.
 - (2) Motels, motor hotels and hotels: One space per each rental unit, plus one space for each ten units, plus additional spaces as may be required in this section for related uses contained within the principal structure.
 - (3) Churches, theaters and auditoriums: At least one space for each four seats based on the designed capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this article.
 - (4) Sanitariums, convalescent homes, rest homes, nursing homes or day nurseries: Four spaces, plus one space for each three beds for which accommodations are offered, plus one space for each employee on the shift of greatest employment.
 - (5) Elderly (senior citizens) housing: One space per unit.
 - (6) Convenience food restaurants: At least one space for each three seats, or one space for each three occupants based on the design capacity, whichever is greater.
 - (7) Bowling alleys: At least five spaces for each alley, plus additional spaces as may be required in this section for related uses contained within the principal structure.
 - (8) Motor fuel stations: At least four spaces, plus two spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts or service shall be required to provide additional parking in compliance with other applicable provisions of this article.

- (9) Retail store and service establishment: At least one off-street parking space for each 250 square feet of floor area for retail or service area, plus one space for each 500 square feet of area devoted to storage, warehousing or processing.
- (10) Furniture and carpet store: One space for each 500 square feet of floor area.
- (11) Manufacturing, fabricating or processing of products or materials: One space for each 350 square feet of floor area, plus one space for each company-owned truck (if not stored inside the principal building).
- (12) Warehousing, storage or handling of bulk goods: That space which is solely used as office shall comply with the office use requirements plus one space per each 1,000 square feet of floor area, plus one space for each employee on the maximum shift and one space for each company-owned truck (if not stored inside the principal building).
- (13) Automobile washing establishments (in addition to required stacking space):
 - a. Automatic drive-through, serviced: A minimum of three spaces, or one space for each employee on the maximum shift, whichever is greater.
 - b. Self-service: A minimum of two spaces per stall.
 - c. Service station carwash: None in addition to that required for the station.
- (14) Private racquetball, handball and tennis courts: Not less than three spaces per each court.
- (15) Offices (except medical and dental offices): One space for each 350 square feet of gross floor area; minimum of four spaces.
- (16) Medical and dental offices: Four spaces for each doctor or dentist, plus one per employee.
- (17) Restaurants and taverns: One space for each three seats, or one space for each three occupants based upon the design capacity, whichever is greater, plus one space for each two employees.
- (18) Schools, public and private:
 - a. Elementary and junior high schools: 1½ spaces for each classroom, library, lecture hall and cafeteria, plus one additional space for each three fixed seats in the auditorium, gymnasium or other place of public assembly or one space for every 21 square feet of area available for public assembly where no fixed seats are provided.
 - b. Senior high schools: 1½ spaces for each classroom or lecture hall, plus one additional space for each five students that the school is designed to accommodate, plus one additional space for each employee or staff member. For theaters, auditoriums, sports arenas, gymnasiums and similar places of public assembly, in addition, there shall be one space for each three fixed seats or one space for every 21 square feet of area available for public assembly where no fixed seats are provided. In no event shall less than ten spaces be provided for any use, regardless of the number of employees.
- (19) Day care facilities: One space for each eight enrollees, and one space for every employee.
- (20) Convention centers, civic/events centers and similar places of assembly: One space for every four fixed seats, or one space for every four persons based upon the design capacity of the building where fixed seats are not provided.
- (21) Drive-in banks: One space for every 300 square feet of building floor area, and storage space for four vehicles at each drive-in window.
- (22) Funeral homes: One space for each four seats in funeral service and state room areas, in addition to one space for each hearse or other commercial vehicle.

- (23) Hospitals: One space for every two beds.
 - (24) Automobiles and garages for repair, tire recapping, muffler, battery, brakes and other similar services: Three spaces for each service bay.
 - (25) Drive-in or walk-up food or drink services: One space for each three seats plus one space per employee and storage lanes a minimum of 15 feet wide and 100 feet in length for each drive-up service window. Drive-up only establishments shall provide a minimum of five parking spaces in addition to required employee parking.
 - (26) Laundry and dry cleaning, self-service: One space for every three pieces of rentable equipment.
 - (27) Recreation uses:
 - a. Golf courses, driving ranges, miniature golf or similar recreation:
 - 1. Four spaces per green for golf courses.
 - 2. One space per each two practice tees.
 - 3. Two spaces per green for miniature golf courses.
 - b. Health exercise facilities: One space per 50 square feet of floor area.
 - c. Swimming pools: One space per 140 square feet of pool area.
 - d. Skating rinks (ice or roller rinks): One space per 200 square feet of building area.
 - e. Electronic games: One space per each three games.
 - f. Go-carts, tube boats and similar devices: One space for each three pieces of rental equipment.
 - (28) Cafeterias, nightclubs, taverns, dancehalls and lounges: One space for every 50 square feet of floor area, or one space for every four persons based upon the design capacity, whichever is greater.
 - (29) Boardinghouses, bed and breakfast establishments, and fraternal organizations: Two spaces, plus one space for each sleeping unit or resident member.
 - (30) Art galleries, museums and similar uses: One space for each 250 square feet of floor area.
 - (31) Wholesale establishments: One space for each 500 square feet of floor area.
 - (32) Contractors' yards, material yards and lumberyards: One space for each 350 square feet of floor area, plus one space for each employee working on the premises, plus one space for each company owned truck, vehicle or equipment, plus a minimum of five spaces for visitor parking.
 - (33) Retail sales of vehicles, heavy equipment and other large products: One space for each company vehicle, in addition to one space for each 350 square feet of building floor area, plus one space for each employee.
- (f) *Handicapped parking spaces.*
- (1) For parking areas with five to ten spaces, at least one handicapped space shall be provided. For parking areas with more than ten spaces, one handicapped space per ten spaces shall be provided. Handicapped parking spaces in lots having 15 spaces or more shall be a minimum of 12 feet by 20 feet and shall be permanently marked with signs restricting use to handicapped persons. On-pavement marking or portable signs shall not be used as substitutes for permanent signage.
 - (2) Each parking space for the handicapped shall be designated by its own conspicuously posted upright sign, either freestanding or wall mounted, showing the international disabled symbol of a wheelchair; it may include such wording as "disabled parking" or "handicapped parking." Each sign shall be no smaller than 12 by 18 inches. Each sign shall have its lower edge no less than four feet above grade. Signs shall be maintained in good condition. In parking lots serving nonresidential uses, barriers shall protect freestanding signs from being hit by motor vehicles. However, for any such spaces required for

dwelling parking, where the premises are required to have ten or fewer off-street parking spaces, no sign need be displayed so long as no person with need of a designated disabled parking space is a resident on the premises.

(g) *Joint use of parking facilities by schools or churches and business establishments.*

- (1) *Authorized.* Up to 80 percent of the parking facilities required by this section for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities of the following daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, or manufacturing, wholesale and similar uses.
- (2) *Conditions.*
 - a. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of such parking facilities.
 - b. The applicant shall show that there is no substantial conflict in the operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.
 - c. A properly drawn legal document, executed by the parties concerned, for joint use of off-street parking facilities, duly approved as to form and manner of execution by the village attorney, shall be filed with the village clerk and recorded with the county clerk.

(h) *Off-site parking.*

- (1) Any off-site parking which is used to meet the requirements of this article shall be a conditional use as regulated by this article and shall be subject to the conditions listed in this subsection.
- (2) Off-site parking shall be developed and maintained in compliance with all requirements and standards of this article.
- (3) Reasonable access from off-site parking facilities to the use being served shall be provided.
- (4) The site used for meeting the off-site parking requirements of this article shall be under the same ownership as the principal use being served, or under public ownership, or shall have guaranteed permanent use by virtue of a perpetual lease filed with the village clerk and county clerk.
- (5) Off-site parking for multiple-family dwellings shall not be located more than 200 feet from any normally used entrance of the principal use served.
- (6) Off-site parking for nonresidential uses shall not be located more than 300 feet from the main entrance of the principal use being used.
- (7) Any use which depends upon off-site parking to meet the requirements of this article shall maintain ownership or parking utilization of the off-site location until such time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.

(i) *Joint use of parking by businesses on adjacent property.* When it can be established by the owners that two businesses located on adjacent property operate at different hours, parking requirements may be shared jointly according to the maximum parking requirements of the two properties, provided there is a written agreement ensuring retention for such purposes and stating the hours of operation. The agreement shall be properly executed by the owners of both properties, and approved as to content and form by the village attorney and planning administrator and filed with the application for site development approval. The planning commission shall determine the extent of allowable joint use parking based on the owners' submission and staff recommendation.

(j) *Variances.*

- (1) The planning commission shall be able to grant variances from the parking requirements of this article on all buildings existing prior to the adoption of the ordinance from which this article is derived. If a preexisting building is to be expanded, then the new portion of the building shall have to meet the parking requirements of this article.
- (2) The planning commission may grant a variance of the parking requirements only where the granting of such variance is not contrary to the public interest and will avoid unnecessary hardship and serve substantial justice while meeting the spirit of this article.

(Code 1985, § 10-5-11; Ord. No. 97-05, 5-27-97; Ord. No. 97-09, § 2, 7-29-97; Ord. No. 98-01, 1-13-98; Ord. No. 99-18, 9-28-99)

Cross reference(s)—Traffic and vehicles generally, ch. 82Cross reference(s)—.

Sec. 54-79 OFF-STREET LOADING FACILITIES.

(a) *Location.*

- (1) All required loading berths shall be off-street and located on the same lot as the building or use to be served.
- (2) Except for loading berths required for apartments, no loading berths shall be located closer than 50 feet to a residential district unless within a structure.
- (3) Loading berths shall not be located within the minimum front yard building setback.
- (4) Loading berths located at the front or at the side of buildings on a corner lot shall observe the following requirements:
 - a. Loading berths shall not conflict with pedestrian movement.
 - b. Loading berths shall not obstruct the view of the public right-of-way from off-street parking access.
 - c. Loading berths shall comply with all other requirements of this section.

(b) *Screening.* Except in the case of multiple dwellings, all loading areas shall be screened and landscaped from abutting and surrounding residential uses.

(c) *Size.* Unless otherwise specified in this article, the first loading berth shall be not less than 70 feet in length, and additional berths required shall be not less than 30 feet in length, and all loading berths shall be not less than ten feet in width and 14 feet in height, exclusive of aisle and maneuvering space.

(Code 1985, § 10-5-12)

Cross reference(s)—Traffic and vehicles generally, ch. 82Cross reference(s)—.

Sec. 54-80 NONCONFORMING USES AND STRUCTURES.

- (a) Any structure or use lawfully existing upon the effective date of this article may be continued at the size and in the manner of operation existing upon such date, except as otherwise specified in this section.
- (b) Nothing in this article shall prevent the placing of a structure into safe condition when the structure is declared unsafe by the building official.

- (c) When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.
- (d) Whenever a lawful nonconforming use of a building or structure shall have been damaged by fire, flood, explosion, earthquake, war, riot or act of God, it may be reconstructed.
- (e) Whenever a lawful nonconforming use of a building or structure or land is discontinued for a period of 90 days, any future use of the building or structure or land shall be in conformity with the provisions of this article. This does not apply to residential units existing in nonresidential zones.
- (f) Subject to the provisions of section 54-181 et seq., pertaining to signs, as amended from time to time, normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary structural repairs, provided such structural repairs do not enlarge or intensify the nonconforming use unless they meet the provisions of this section.
- (g) If no structural alterations are made, any nonconforming use of land or a building or structure may be changed to another nonconforming use provided that the planning commission makes a finding in the specific case that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. The planning commission may require appropriate conditions and safeguards in accordance with the purpose of this article.
- (h) Alterations and additions may be made to a structure or building containing lawful nonconforming residential units when they will improve the liveability thereof, provided they will not increase the number of dwelling units. Nonconforming residential units shall be subject to the appropriate residential setbacks and restrictions.
- (i) A maximum expansion of 25 percent of the ground or floor area of a legally nonconforming use may be permitted one time by the planning commission. The expansion of a nonconforming use shall be approved if and only if, in the circumstances of the particular case and under the conditions imposed, the applicant shows that:
 - (1) The expanded use will not significantly interfere with the enjoyment of other land in the vicinity.
 - (2) The expanded use will not significantly damage surrounding structures or activities.
 - (3) The expanded use is consistent with the spirit of this article, substantial justice, and the general public interest.
 - (4) The owner will experience unnecessary hardship, and in addition will be denied a continued reasonable use of the property, if the expansion is not approved.
 - (5) The expansion does not exceed 25 percent of the floor or ground area in nonconforming uses on the site at the time it became nonconforming.

The planning commission shall hold a public hearing to consider applications for expansion of a nonconforming use in accord with the provisions of section 54-61(f).

- (j) Existing lots.
 - (1) At the time of the enactment of the ordinance from which this article is derived, if an owner of a plot of land consisting of one or more adjacent lots in a subdivision of record does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements or does not have sufficient lot width to conform to the minimum lot width requirements, such plot of land may nevertheless be used as a building site. The dimensional requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit a structure of acceptable size to be built upon the lot, such reduction to be determined by the planning commission.
 - a. In the R-1, R-2 and M-1 zones, the reductions shall permit only a single-family residence. In M-2 zones, a mobile home shall be less than 18 feet in width.

- b. In the R-3 zone, the reduction shall permit only a duplex.
 - c. In the R-4 zone, the reduction shall permit only a townhouse cluster or apartment containing no more than four units.
- (2) No lot, even though it may be part of one or more adjacent lots in the same ownership at the time of passage of the ordinance from which this article is derived, shall be reduced in size so that lot width or size of yards or lot per area per family or any other requirement of this article is not maintained. This subsection shall not apply when a portion of a lot is acquired for a public purpose.

(Code 1985, § 10-5-13)

Sec. 54-81 MISCELLANEOUS PERFORMANCE REQUIREMENTS.

(a) *Glare and lighting.*

- (1) Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent lightbulbs shall not be permitted in view of adjacent property or public rights-of-way. Any light or combination of lights which causes light on a public street, other than lights specifically intended for that purpose, shall not exceed one footcandle (meter reading) as measured from the centerline of the street. Any light or combination of lights which casts light on residential property shall not exceed four footcandles (meter reading) as measured from the property.
- (2) No light which is flashing, revolving or otherwise resembles a traffic control signal shall be allowed in any area where it could create a hazard for passing vehicular traffic.

(b) *Surface water ponding.* Natural impoundment shall be retained as much as possible or, if necessary, enlarged or modified as directed by the Public Works Department to reduce the off-site runoff.

(c) *Trash and garbage incinerators; storage of trash or garbage.* No exterior incineration of trash or garbage is permissible. No exterior storage of trash or garbage is permissible except in an accessory building enclosed by walls and roof or enclosed containers within a totally screened area, except for single-family and duplex residential uses.

(d) *Public street frontage.* Except as otherwise allowed or required by this article, no lot shall contain any building unless such lot abuts, for at least 50 feet, on a public street.

(e) *Clear sight triangles.*

- (1) An area of unobstructed vision at street intersections, entrances and exits, permitting a vehicle driver to see approaching vehicles to the right or left, shall be maintained. Nothing over 30 inches in height, measured from the street centerline grade, shall be permitted to obstruct a sight line triangle area. The sight line triangle shall be bounded by lines measured 30 feet along the front and side street lines of a corner lot from the intersection of the property lines of such lot and a line connecting points 30 feet distant from the intersection of the property lines of such lot. Any existing trees located within the clear sight triangle may be allowed to remain if all branches are trimmed to a height of eight feet.
- (2) No post or column within the designated triangle shall exceed 12 inches in thickness at its greatest cross-sectional dimension.

(Code 1985, § 10-5-14; Ord. No. 2011-11, 6-12-11)

Sec. 54-82 NOISE ABATEMENT AND EMISSION CONTROL.

All uses shall be constructed and operated to ensure that there is no excessive noise, vibration, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the parcel on which the use is located. For purposes of this section, excessive is defined as to a degree exceeding that caused in their customary manner of operation by uses permitted in the I-1 district, to a degree injurious to the public health, safety or welfare, or to a degree in which it is a nuisance by reason of excessiveness.

(Code 1985, § 10-5-15)

Cross reference(s)—Noise generally, § 38-31Cross reference(s)— et seq.

Sec. 54-83 LOT NUMBERING.

- (a) *Short title.* This section shall be known as the Road Naming and Site Addressing System for the Village of Ruidoso, New Mexico.
- (b) *Applicability.* This section shall apply to parcels and tracts of land, within the incorporated areas of the village.
- (c) *Definitions.*

Address management system (AMS). Address management system (AMS) offices of the United States Postal Service (USPS) each serve several regional post offices. Their primary purpose is to maintain official records of valid mailing addresses for their region. In addition to maintaining current records of valid mailing addresses, AMS offices also review and approve address changes for adherence to USPS standards.

ADDRESS MANAGEMENT SYSTEMS
UNITED STATES POSTAL SERVICE
THERESA GONZALES

1135 BROADWAY NE - ROOM 221

ALBUQUERQUE, NM 87101-9321

505-346-8019

Address number. The numeric designation for an addressable structure or unit. e.g.: If 101 Main St is the site address, 101 is the address number.

Address placard. An individual address plate identifying the address number of a structure.

Addressable structures or units. Generally, the habitable or occupied structures(s) on a lot, parcel or tract.

Addressing committee. A committee composed of members from the community development department, the village fire department, the village police department, public works department, code enforcement and emergency management. This committee will be responsible for changes to new and existing addresses and road names.

Building permit. A permit issued by the village and/or the division of manufactured housing before any construction activity can commence.

Directional. A maximum of two letters within an address that consists of any combination of the cardinal directions of North, South, East, West.

Driveway. A means of vehicular access, beginning at the property line of a lot abutting a public road, private road, access easement, or private right of way, that provides access to a building or structure on that lot.

Homonym. Road names that have identical or phonetically similar names.

Inconsistent site address or road name. A site address or road name that causes confusion to or hinders the efficient operation of the post office or delivery service, fire response agency, emergency medical service or law enforcement agency serving the village (e.g. duplicate road names, road signage discrepancies, address numbers or ranges that are out of sequence).

Lot. A lot, parcel or tract of land created by legal conveyance of said lot, parcel or tract; a lot, parcel or tract shown on a subdivision plat which was approved and recorded, according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by approval of the village in conformance with subdivision regulations in effect at the time of approval.

Mailing address. The address to which mail from the U.S. Postal Service is sent.

Private road. Any road not included in a right of way dedicated to the public.

Public road. Any road included in a right of way dedicated to the public.

Road. A general term denoting a public or private way used for access to four or more lots, parcels, or tracts of land, including the entire area within the right of way and/or access easement.

Site address. A property identification comprised of an address number, a directional, a road name, a road type, and a unit number if applicable.

Subdivision. All types of land divisions subject to the village subdivision and land use codes.

Village addressor. Person(s) designated by the village manager to administer the village road naming and site addressing system.

(d) *Road naming and site addressing system requirements.*

(1) *General.*

a. *Addressable structures or units.*

1. All new addressable structures or units shall be assigned a site address by the village addressor. A site address is allotted every 100 feet of parcel frontage.
2. Existing addressable structures or units that do not have a site address shall be assigned a site address by the village addressor.
3. The site address of existing addressable structures or units that have an inconsistent site address shall be changed when necessary by the village addressor.
4. The state construction industries division and/or village community development department shall not issue a building permit to any lot, parcel, or tract of land subject to this section until after the village addressor has assigned a site address.
5. No person or utility company shall install or cause to be installed any utility service, including, but not limited to, electric, gas, water, sewer, telephone or cable television to any building required by this section to be assigned an address without first receiving an address from the village addressor.

b. *Roads.*

1. New roads shall be assigned a road name approved by the village governing body.
2. Existing roads without a name shall be assigned a road name approved by the village

- governing body.
3. Existing roads with inconsistent road names shall be renamed when necessary by the village addresser and approved by the village governing body.
- c. Display of address numbers and road name signs.
1. Address numbers shall be displayed, where the driveway meets the road, on every addressable structure. Commercial address placard placement shall be approved by the addressing committee staff prior to installation.
 2. The village standard road name signs shall be required at all road intersections on private and public roads.
- d. Assignment or modification of address numbers or road names.
1. The village addressing committee shall be responsible to assign or modify address numbers or road names.
- e. *Ownership of road name signs.* All road name signs required by this section shall be the property of the village. No one shall willfully destroy or remove any such road name signs.
- (2) *Road naming.*
- a. New road names.
1. The final plat for all new lots, including new subdivisions, shall not be recorded until the addressing committee has reviewed and accepted the names of all roads.
 2. All public or private roads, including private access easements, that serve more than four parcels shall be named, have road name signs, and have address ranges calculated.
 3. Driveways shall not be assigned road names. The site address will include the name of the public or private access road with which the driveway intersects.
 4. The village's assignment of a road name shall not constitute or imply acceptance of the road into the village road maintenance program.
 5. The road name shall not be a proper name or family surname, unless historically significant.
 6. Road names shall not use corporate trade names unless coincidental.
 7. Upon adoption of this section, road names shall not be duplicated within the village or surrounding communities.
 8. Road names should not be inconsistent, possibly hindering the operations of any of the following agencies: post office or delivery service, fire response agency, emergency medical service, or law enforcement agency serving the village.
 9. Adjectives may be duplicated in a road name as long as they are not duplicated in the same subdivision (e.g. Red Stone Road and Red Fox Road).
 10. Homonyms/phonetic duplications of road names are prohibited (e.g., Maple Trace Road and Maple Chase Lane).
 11. Road names shall not include obscene, racial, and/or derogatory terms.
 12. Because North, South, East and West are directional features of the addressing system and lead to confusing addresses if included as part of the name, cardinal directions shall not be part of any road name (e.g., Westover Road or Southwick Dr are not acceptable).

VOR example North Loop Rd. Acceptable abbreviations for cardinal directions are N, S, E, and W or some combination thereof to represent direction.

13. Numbers shall not be used in road names except for those used in state or federal road systems.
 14. Continuous roads must retain the same road name and cannot change at intersections.
 15. The names of state and federal highways are assigned based on their state or federal highway number. If any given section of a road has multiple designations, e.g.: State and a federal highway number or two federal highway numbers, the following hierarchy shall be used within the village addressing/road naming system:
 - (i) Federal highway number (lowest federal highway number takes precedence if more than one.
 - (ii) Forest service roads.
 - (iii) State highway number (lowest state highway number takes precedence if more than one.
 16. Abbreviations used for road name prefixes and suffixes must be compliant with the United States Postal Service (e.g. N, S, E, W, DR, BLVD, ST, AVE). This list of abbreviations is in the office of the village addresser. The following suffixes will not be used: Drive, boulevard, street or avenue.
 17. The main title of a road name shall not be abbreviated (e.g., Mount Shasta Dr NOT Mt. Shasta Drive)
- b. *Renaming existing road names.* The standards listed in subsection (d)(2)a., apply when existing roads are renamed except as follows:
1. Historically significant road names shall be retained where feasible. The desire to maintain these road names to commemorate local history will be balanced with the goal of making road names easy to use by citizens, visitors, and service providers.
 2. Road names governed by this section shall not be duplicated with the village.
 3. If two existing roads have duplicate names, one road name must be changed. If it cannot be determined or verified which road used the name first, the road with fewer addressable structures or units shall be renamed.
 4. The village addresser may initiate a change to an existing road name if necessary pursuant to subsection (d).
- (3) *Road name signs.*
- a. Road name signs for roads that are maintained by the village.
1. Road name signs are required on all public roads that are maintained by the village. These signs shall be displayed at all road intersections in the village.
 2. The composition, size and height of road name signs on village maintained roads must comply with the village road standards.
 3. Letters on road name signs, on village maintained roads, shall be a standard size of four-inch high letters and have a green background with white letters, unless in an approved historic district, where brown background with white letters shall be used.
 4. The signs shall be placed at a standard height of seven feet from the ground level when

mounted and shall consist of a U-channel posts and breakaways.

5. Road name signs shall be placed in the right-of-way. The location of road name signs must not obscure any potential traffic hazard. At any location where the typical placement of a sign interferes with a safe sight distance, an alternate location shall be found.
 6. Only those road name signs assigned and approved by the addressing committee are allowed at roadway intersections. The village may remove any road name sign displaying unapproved road names or road name signs that do not comply with the village road standards.
 7. Personal signs that are similar to village signs, or any other type of sign that may cause confusion, may not be placed within 200 feet of any road right-of-way.
 8. The funding, manufacture, and installation of village standard road name signs on village maintained roads shall be the responsibility of the village except as in subsection 10. below.
 9. The ongoing maintenance of village standard road name signs on village maintained roads shall be the responsibility of the village.
 10. Road name signs for new and existing public roads in all subdivisions, claims of exemption, or any other plat(s) approved by the village, including land plans, shall be installed, paid for by the developer (purchased through the village addresser, at village's costs), and maintained, including all road name signs that must be changed or added between the location of the subdivision and the village road or state/federal highway providing access to the subdivision.
- b. Road name signs for roads that are privately maintained.
1. Road name signs are required on all roads that are privately maintained. These signs shall be displayed at all road intersections in the village.
 2. The composition, size and height of road name signs on privately maintained roads must comply with the village road standards.
 3. Letters on road name signs on privately maintained roads shall be a standard of four-inch high letters and have a blue background with white letters, unless in an approved historic district, where brown background with white letters shall be used.
 4. The signs shall be placed at a standard height of seven feet from the ground level when mounted and shall consist of U-channel posts and breakaways.
 5. The location of road name signs must not obscure any potential traffic hazard. At any location where the typical placement of a sign interferes with a safe sight distance, an alternate location must be found.
 6. Only those road name signs assigned or approved by the addressing committee are allowed at roadway intersections. The village may remove any road name signs displaying unapproved road names or road name signs that do not comply with the village road standards.
 7. Personal signs that are similar to village signs, or any other type of sign that may cause confusion, may not be placed within 200 feet of any road right-of-way.
 8. Village standard road name signs are required on roads not maintained by the village.
 9. The funding, manufacture, and installation of all new village standard road name signs required as a result of this section on privately maintained roads will be the responsibility of the property owners using the road.

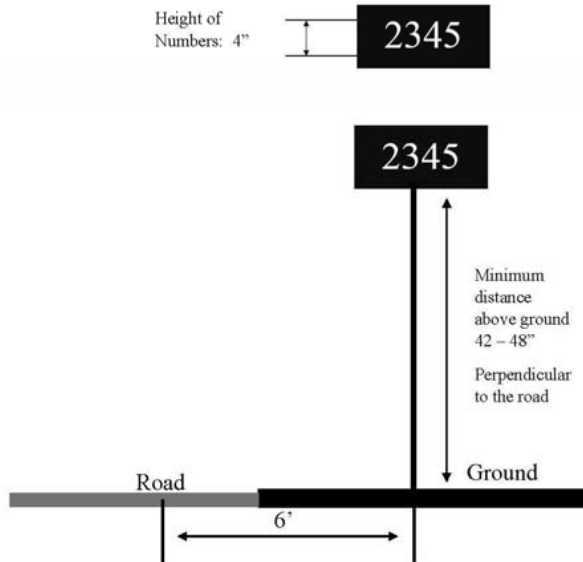
10. The costs associated with ongoing maintenance for the village standard road name signs on privately maintained roads will be the responsibility of the property owners using the private road.
11. Road name signs for new and existing private roads in all subdivisions, claims of exemption, or any other plat(s) approved by the village, including land plans, shall be installed, paid for by the developer (purchased through the village addresser, at village's costs), and maintained, including all road name signs that must be changed or added between the location of the subdivision and the village road or state/federal highway providing access to the subdivision.

(4) *Address numbers.*

- a. Assignment of an address number to new addressable structures or units on existing lots.
 1. All new addressable structures or units on all exiting platted lots, unplatted tracts/parcels, and tracts/parcels developed by metes and bounds shall be assigned site addresses only after the property owner/developer has made a final determination of the driveway/access point and is ready to apply for a building permit.
 2. Before a building permit is issued, a driveway location and permit must be obtained from the village street department and a site address must be assigned by the village addresser.
 3. Only one address per parcel will be issued. If more than one residence is on a single parcel, the owner will be given a master number (i.e., 100 Main Road) and the owner/developer must assign numbers (i.e., 100 Main Road #2) to each residence and provide the numbers and a map showing the location of each residence to the village addresser.
 4. Addresses will be issued to improved parcels. Vacant parcels or lots will be assigned for village purposes but are subject to change when parcel or lots are developed, and driveway/access point is determined.
- b. *Display of address numbers.* All owners of addressable structures or units shall establish and display their assigned address number in conformity with the following standards:
 1. The address placard shall be double-sided, numbers placed in a horizontal position, a standard of three inches high reflective numbers, have a black background with white numbers, and be displayed facing the roadway where the driveway meets the road, no more than six feet from the road, perpendicular to the road on a post four feet to bottom of sign from road level.
 2. Any address number associated with an incorrect site address shall be removed and replaced with the correct number by the property owner within 45 days of notification of the correct address by the village addresser. The village will provide the first address placard to the property owner and will install it free of charge. Damaged or placards needing replacement shall be the responsibility of the owner to purchase, install, and maintain. Failure to comply with this ordinance may result in a fine as defined in section 1-6 of the Village Code.
 3. See diagram below for placement example:

HOW TO DISPLAY ADDRESS NUMBERS

SO THEY CAN BE SEEN AT NIGHT – BY POLICE, FIRE, AND RESCUE PERSONNEL
COMING FROM ANY DIRECTION



IF YOUR HOUSE IS NOT VISIBLE OR IS TOO FAR FROM THE ROAD FOR NUMBERS
TO BE SEEN AT NIGHT, DISPLAY YOUR ADDRESS AT BOTH THE DRIVEWAY
ENTRANCE AND ON YOUR HOUSE. ESPECIALLY IF SHARING A DRIVEWAY.

ADDRESS PLACARD MUST BE **PERPENDICULAR** TO THE ROAD
AND VISABLE FROM BOTH DIRECTIONS

- (e) *Site address and/or road name assignment and modification.*
- (1) *Property owner-initiated.* Any property owner may initiate a change to an existing road name for public or private road that provides vehicular access to his/her property through the following procedures:
 - a. Property owners (petitioners) must contact the village addresser to request procedures and application materials for a road name change.
 - b. Petitioners must complete the appropriate form and indicate the reason for the requested road name change. The petitioners shall list three or more desired names ranked in their order of preference on the form. At least 75 percent of property owners with land taking vehicular access from the road must agree to the road name change by signing the form and indicating their property parcel identifier(s).
 - c. Petitioners shall submit the completed form to the village addresser. The village addresser will verify the information supplied on the form. The addressing committee will approve one of the suggested road names, provided it is in accordance with the road naming requirements, the change will not impair the intent and purpose of this section, and the new site address has been approved by the address management system.
 - d. If the form is not completed properly, or if the proposed road name does not meet these requirements, the village addresser will notify the petitioners that their request has been denied, list reason(s) for denial, and provide information describing additional action

required.

- e. If the location of the subject road is not yet field verified and digitized, the village will map the road prior to acting on the petition.
- f. The recorded original plat will not reflect changes to road names. The owner's deed need not be corrected at the time of the road name change. When the property is sold, the property owner should reflect the new road name on the deed. The change may be reflected on the deed as follows:

Street address: 2000 XYZ Road, formerly known as 2001 ABC Road

- g. Owners of property taking vehicular access along the road with the changed name are responsible for the cost of as many road name sign(s) as are required by the village road standards and the cost of installation thereof. When the petition is submitted, full name and billing information (mailing address, physical address, and phone number) for one petitioner must be left with the village for the purpose of billing for the costs of signs and installation.
 - h. A bill covering the costs for the road name signs and installation will be sent to the individual listed within the billing information on the petition, along with the village addresser's preliminary approval of road name change.
 - i. Final approval for the road name change is contingent on acceptance by the addressing committee and full payment of the bill covering the costs for the road name signs and installation.
 - j. The village will commence installation of the road name signs once the bill for the signage costs has been paid in full and final approval of the road name change has been given by the village addresser.
 - k. The village will be responsible for the manufacture, installation, and maintenance of road name sign(s) only on those signs where the roads are maintained by the village. On privately maintained roads, it is the responsibility of the property owners to call the village addresser for replacement signs. Costs for signs, posts and/or hardware will be the responsibility of the property owners.
- (2) *Village-initiated.* The village shall balance the need to modify existing address numbers and/or road names for compliance with this section and postal standards with the desire to retain existing address numbers and/or road names where possible. The village may initiate one or more of the following: the naming of an unnamed road, the modification of an existing road name, the assignment of an address number to an unaddressed structure or unit, or the modification of an existing address number through the following procedures:
- a. Where the village addresser is proposing to name or rename a road. The village addresser shall complete the appropriate form describing the proposed road name assignment or change and listing three pre-approved road names on the form. The village addresser will mail the form to the affected property owners. Affected property owners include those persons whose land has vehicular access to the road proposed to be named or renamed.
 - 1. The form will encourage affected property owners to hold a neighborhood meeting to try to reach consensus on one of the pre-approved road names listed on the form or on a different road name that complies with this section.
 - 2. No later than 45 days from the date on the form, each property owner may state his/her preferred road name by completing, signing and returning the form to the village

addresser.

3. The addressing committee will approve the new road name based on the name selected by the majority of property owners on the forms completed and returned by the property owners. In the event of a tie vote or in the event no property owners return the form, the addressing committee shall select the road name at their sole discretion.
4. Changes to site addresses, which include changes to road names where addressable structures or units exist, are subject to approval by the United States Postal Service Address Management System (AMS). If a site address is not approved, then the above steps will need to be repeated until the address management system approval is attained.
5. After site addresses have been approved by the address management system, the village addresser will send a site address notification letter to affected property owners. At this time, the village addresser will notify property owners of any site address changes or road name changes.
6. The village will be responsible for the manufacture and installation of road name sign(s). The village will be responsible for maintenance only on village maintained roads. On private roads, the property owners using the road will be responsible for contacting the village addresser for replacement signs and for payment of the sign(s).

b. Where the village addresser is proposing to assign or change an address number:

1. The assignment of the address number is not subject to the property owners' approval.
2. After new site addresses have been approved by the address management system, the village addresser will send a site address notification letter to affected property owners.

(f) *Appeals.* Affected property owners may appeal the decision of the village addressing committee within 15 days of the decision to the planning commission. The planning commission's decision may be appealed to the village council. Appeals must be received in writing in accordance with section 54-62, appeals to council.

(g) *Compliance and enforcement.*

- (1) All provisions of this section may be enforced by any legal or equitable means recognized by the New Mexico Revised Statutes and New Mexico Court Rules, as amended. In addition to any other remedies that may be recognized in law or equity, for any unlawful use or development, the village may:
 - a. Deny and withhold all permits, certificates or other forms of authorization to use or develop any land, structure or improvements thereon. This provision applies whether or not the current owner is responsible for the violation.
 - b. Revoke any development permit or other authorization if it determined there is a departure from the approved plans, specifications or conditions of approval or the development permit was obtained by false representation or issued in error. Written notice of revocation must be served upon the owner, the owner's agent or the owner's contractor to whom the permit was issued or the notice may be posted in a prominent location at the place of the violation.
 - c. Initiate injunction or abatement proceedings or other appropriate legal action in district court or other court having jurisdiction against any person, firm, corporation or entity who fails to comply with any provision of this section or any requirements or conditions imposed under this section.
 - d. Seek a court order in the nature of mandamus, abatement, injunction or other action to

- abate or remove a violation.
- e. Withhold all public road improvements and public maintenance from all rights-of-way that have not been accepted for those purposed by the planning and zoning commission.

(2) All remedies provided for violations of this section are cumulative.

(Code 1985, § 10-5-16; Ord. No. 2020-05 , §§ 1—7, 8-11-20)

Sec. 54-84 LOTS NOT SERVED BY PUBLIC WATER OR SEWER SYSTEMS.

- (a) Lots not served by public water or sewer systems may not be developed unless approved by the environmental improvement division of the state health and environment department and the planning commission.
- (b) Lots not serviced by public water and sewer systems shall conform to required minimum lot sizes, required minimum setback distances and such other standards as are required by the environmental improvement division of the state health and environment department and the planning commission.

(Code 1985, § 10-5-17)

Cross reference(s)—Utilities, ch. 86Cross reference(s)—.

Sec. 54-85 RECREATIONAL VEHICLE PARKS.

- (a) *Conditional use permit required; occupancy of recreational vehicles.* A conditional use permit is required for all recreational vehicle park developments and is intended to provide for the development of recreational vehicle parks at standards consistent with the health, safety and welfare of the village. Recreational vehicle parks are permitted by conditional use permit only in C-2 districts. Recreational vehicles, as defined in section 54-31, when used for living purposes, shall be located solely in recreational vehicle parks.
- (b) *General requirements.*
 - (1) *Access; minimum area.* Recreational vehicle parks shall abut and have access from major arterial streets and shall be a minimum of two acres.
 - (2) *Utilities.* Water, sewer, electricity, telephone and other necessary utilities shall be available at the recreational vehicle park, and placement shall be approved by the planning commission.
 - (3) *Driveways.* Access and interior driveways shall be designed to increase ease of access, increase privacy and provide safety. Placement shall be approved by the planning commission.
 - (4) *Density of spaces.* The density of spaces in any recreational vehicle park shall not exceed 20 spaces per acre.
 - (5) *Setbacks.* Setbacks shall be the same as for other permitted uses in a C-2 district.
- (c) *Development standards.*
 - (1) *Size of spaces.* Spaces for recreational vehicles shall be a minimum of 1,500 square feet, with minimum dimensions of 30 feet by 50 feet.
 - (2) *Pads.* Recreational vehicle pads shall be a minimum of 14 feet by 35 feet, and shall be paved with asphalt or other all-weather surface.

- (3) *Setbacks within spaces.* Setbacks within the recreational vehicle space shall be a minimum of eight feet in the front, and five feet in the side and rear.
- (4) *Landscaping.* A landscaping concept plan shall be approved by the planning commission for all areas not covered by structures or paved.
- (5) *Screening.* Screening of the perimeter of a recreational vehicle park by a wall and/or other approved landscaping shall be required.
- (6) *Arrangement of spaces and accessways.* Private accessways and individual space arrangements shall be designed to accommodate frequent movement of recreational vehicles.
 - a. Interior streets shall be a minimum of 20 feet for one-way traffic and 27 feet for two-way traffic, and shall be paved with asphalt, concrete or crushed rock.
 - b. The street layout shall be designed for preservation of natural features and to follow topography to the greatest extent possible.
- (7) *Recreational area.* There shall be active recreational area for tenants, comprising not less than seven percent of the gross site area, which shall not include required setback areas.
- (8) *Community building.* There shall be a community building which shall provide for recreational and service needs of occupants of the recreational vehicle park. It shall include restrooms, showers and a laundry. No dry cleaning shall be permitted in the recreational vehicle park. The community building may not be included as part of the required recreational area.
- (9) *Refuse collection facilities.* Adequate refuse collection facilities shall be provided, constructed and maintained in accordance with all village health regulations, and shall be screened and designed to bar animals from access to refuse. Refuse shall be removed from collection sites at least once a week.
- (10) *Lighting.* Lighting shall be provided to illuminate accessways and walkways for the safe movement of vehicles and pedestrians at night.
- (11) *Sewage disposal.* An approved means for emptying sewage holding tanks shall be provided.
- (12) *Expansion of existing parks.* Expansion of existing recreational vehicle parks shall be in accordance with provisions of this section.
- (13) *Caretaker's residence.* One mobile home may be placed in the recreational vehicle park for use by a caretaker.

(Code 1985, § 10-5-18)

Sec. 54-86 ARCHITECTURAL DESIGN STANDARDS.

- (a) *Purpose; objectives.* The architectural design standards set forth in this section are intended to encourage innovative design with a reasonable degree of freedom of choice while showing a concern for visual amenities and preserving the special qualities inherent in the village that attract tourists and residents alike and that are the basis of the village's economic stability and growth. Objectives of architectural design standards are to:
 - (1) Protect property;
 - (2) Maintain the high character of community development; and
 - (3) Protect real estate from impairment or destruction of value.

- (b) *Definitions.* As used in this section, the following terms shall have the meanings designated in this subsection:
- (1) *Accessory building* is as defined in section 54-31.
 - (2) *Enamel* means a glassy, opaque substance fused to metal as a protective coating.
 - (3) *Exposed* means open to view.
- (c) *Metal siding; cinderblock and cement.* Exposed metal siding, cinderblock and cement on buildings are permitted in all districts with the following limitations:
- (1) Exposed cinderblock and cement walls on structures or portions of structures are permitted in all districts.
 - (2) A planning official may approve metal siding on structures in all districts upon finding that:
 - a. Such siding is characteristic of building types within the area; and
 - b. Metal siding is permitted in residential districts as follows:
 - I. On mobile homes permitted by this Code;
 - II. On residences and accessory structures, except that raised rib metal, v-rib metal, R-panel siding types are prohibited;
 - III. On prefabricated storage structures meeting the requirements of subsection 54-92(d)(3) and provided that the storage structure does not exceed 120 square feet.

(Code 1985, § 10-5-19; Ord. No. 96-15, 9-10-96; Ord. No. 99-02, 3-30-99; Ord. No. 2019-02, 3-12-19)

Sec. 54-87 APPROVED STRUCTURES.

- (a) Use of property permitted by this article shall be conducted from or within a permanent structure conforming to the requirements in section 22-31(a) of the Ruidoso Code for the use or uses to be conducted in the respective zone district, unless approved as a mobile vending stand pursuant to subsection (b) of this section or unless approved under subsection 54-100(c)(24) allowing use of fiber or membrane tent in a C-2 zone district.
- (b) Mobile vending stands are expressly prohibited except when licensed and approved in C-2 and C-3 zone districts as a conditional use or where use is temporary and operated in connection with special community and civic events which have been licensed and approved by the village under section 26-69 and the operation is limited to the approved location and jurisdiction for such event.

(Code 1985, § 10-5-20; Ord. No. 97-12, § 3, 7-29-97; Ord. No. 2017-07, § 3, 6-13-17)

Sec. 54-88 URBAN-WILDLAND INTERFACE CODE ADOPTED; AMENDMENTS.

- (a) *Adoption of Urban-Wildland Interface Code.* There is hereby adopted by the Village of Ruidoso for the purpose of prescribing regulations mitigating the hazard to life and property from intrusion of fire from wildland fire exposures, fire exposures from adjacent structures and prevention of structure fires from spreading to wildland fuels, that certain code known as the Urban-Wildland Interface Code (U/WIC)

published by the International Fire Code Institute, being particularly the 2000 edition thereof and the whole thereof, including all amendments thereto and all future editions thereof, save and except such portions as are hereinafter deleted, modified or amended by this ordinance. The same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the jurisdiction of the Village of Ruidoso, as provided by law.

- (b) *Establishment and duties of code official.* The U/WIC as adopted and amended herein shall be enforced by the planning director or his designee. In areas of overlapping jurisdictions, appropriate sections shall be enforced by either the planning director, director of forestry, or the fire chief, as applicable.
- (c) *Amendments to the U/WIC.* The U/WIC adopted herein is amended as follows: Section 504.3 is amended to read: Combustible eaves, fascias and soffits shall be enclosed. Any exposed material must be a minimum of one-hour-rated fire-resistive material. Appendix I-C is replaced with a new Fire Hazards Rating Form which shall reflect the standards in subsection (g) below. Appendix I-B is repealed and in its place shall be adopted the Fuels Management Standards of the Village of Ruidoso found in section 42-80 of this Code.
- (d) *Appeals.* Whenever the code official disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the code official to the planning and zoning commission and thereafter to the governing body and district court, all as provided in this chapter.
- (e) *New materials, processes or occupancies which may require permits.* The planning administrator, the building inspector, director of forestry, and the fire chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in said code. The planning administrator shall post such list in a conspicuous place at the planning department and distribute copies thereof to interested persons. Fees shall be assessed in accordance with the provisions of this section or shall be as set forth in the fee schedule of this code.
- (f) *Enforcement.* The provisions of the U/WIC shall be enforceable according to the provisions of this chapter.
- (g) Fuels Management Requirements (section 42-80 of this Code) and the site related portion of the Fire Hazard Rating Form (section 42-81 of this Code) must be assessed BEFORE issuance of a building permit.
 - (1) Volume of forest debris to be removed from the building site (footprint) shall be assessed by the director of forestry. applicant shall either pay the fees set forth in Appendix A to this Code or make other disposal arrangements as approved by the director of forestry.
 - (2) For sites located within village limits, forest material, including tree stumps, that will be picked up by the village solid waste department; must be placed at curbside or alternate approved locations. Stumps must be piled separately from branch and trunk material.
 - a. Complete removal and disposal of tree stumps is the responsibility of the permittee.
 - b. If outside the village, see subsection 54-133(f).
 - (3) Fuels Management Standards (section 42-80) shall be completed and inspected prior to issuance of a certificate of occupancy or re-certification of the site plan.

(Ord. No. 2002-04, 6-25-02; Ord. No. 2004-02, 5-11-04; Ord. No. 2007-09, 9-11-07)

Sec. 54-89 —54-180. RESERVED.

DIVISION 8: SIGNS

Sec. 54-181 PURPOSE OF DIVISION.

- (a) The purpose of this division is to protect and promote the general welfare, health, safety and order within the village through standards, regulations and procedures governing the erection, use and/or display of devices, signs or symbols serving as visual communicative media to persons situated within or upon public rights-of-way or properties. The regulations set forth in this division are intended to preserve the special qualities inherent in the village that attract tourists and residents alike, and that are the basis of the village's economic stability and growth.
- (b) The provisions of this division are intended to encourage creativity, a reasonable degree of freedom of choice, an opportunity for effective communication and a sense of concern for the visual amenities on the part of those designing, displaying or otherwise utilizing needed communicative media of the types regulated by this division, while at the same time ensuring that the public is not endangered, annoyed or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of such communicative facilities.

(Code 1985, § 10-6-1; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-182 DEFINITIONS.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sign means any display to the public view of letters, numerals, emblems, logos or any parts or combination thereof, designed to inform, advertise or promote merchandise, services or activities. Sign content shall pertain only to the business, industry or pursuit conducted.

Signage means the eligible area allowed.

(Code 1985, § 10-6-2; Ord. No. 97-07, § 1, 7-29-97)

Cross reference(s)—Definitions generally, § 1-2Cross reference(s)—.

Sec. 54-183 PERMIT REQUIRED.

All signs erected within the village must be reviewed and approved by the appropriate officer of the village prior to being placed on any building, pole or other structure, except as otherwise provided in this division. Permits shall be issued for all approved signs and shall be maintained on the premises where the sign is displayed, except that permits for off-premises signs shall be maintained on the premises of the permittee. Failure to obtain a sign permit is a violation of this division.

(Code 1985, § 10-6-3; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-184 ENFORCEMENT OFFICERS.

This division shall be enforced by any employee designated by the village manager.

(Code 1985, § 10-6-4; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-185 APPLICATION FOR PERMIT.

The application form for a sign permit shall be obtained from the enforcement officer and shall require the following information:

- (1) The name and address of the owner of the sign.
- (2) The name of the business and the location of the sign (address).
- (3) A drawing of the sign, indicating size, materials, texture and finish and illumination to be used.
- (4) A site plan showing where the sign will be located on the premises, as well as all other signs existing on the premises.
- (5) Indication on the site plan of the location of buildings on the site and the dimension and area of building frontages.
- (6) Written consent of the owner of the building, structure or land on which the sign is to be erected.
- (7) Any electrical permit required and issued for such sign.
- (8) The contractor's name, address and license number, where applicable.

(Code 1985, § 10-6-5; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-186 RESPONSIBILITIES OF THE PERMITTEE.

- (a) It is the responsibility of the permittee to comply with all provisions of this division and sections 54-37 and 54-38, as may be applicable.
- (b) It is the responsibility of the permittee to be aware of and obtain any license, permit and/or inspection required under the Construction Industries Licensing Act, NMSA 1978, §§ 60-13-1 to 60-13-59, or the construction industries division rules and regulations of the state. Enforcement of any such rules or regulations shall be by the appropriate state inspectors.

(Ord. No. 97-07, § 1(10-6-6), 7-29-97)

Sec. 54-187 INSPECTIONS GENERALLY.

The building inspector shall inspect, as he deems necessary, and subject to section 54-186, each sign regulated by this division for the purpose of ascertaining whether such sign is secure or insecure, or in need of repair and for compliance with the requirements of this division. The applicant must call for final inspection on all signs permitted pursuant to this division.

(Code 1985, § 10-6-7; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-188 APPEALS.

- (a) Any sign permit application which is rejected, for any reason, by the enforcement officer may be appealed to the planning commission. The applicant shall submit, in writing, a request to be placed on the planning commission agenda within five working days of the rejection. The appeal will be scheduled for the next planning commission meeting, provided the planning commission agenda deadline has not passed, in which event the matter will be scheduled for the next regularly scheduled planning commission meeting.
- (b) Any denial by the planning commission may be appealed to the council by submitting a written request to the village clerk within 15 days of the rejection.

(Code 1985, § 10-6-8; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-189 PERMIT FEE; INVALID PERMITS; INSPECTION UPON COMPLETION OF CONSTRUCTION.

- (a) The fee for a sign permit for permanent signage shall be set from time to time and is listed in the fee schedule in appendix A to this Code.
- (b) The fee is due at the time the application is approved.
- (c) A sign permit shall be issued at the time the fee is paid.
- (d) The fee shall be waived where only change of copy is being made for an existing business.
- (e) A sign permit shall become null and void:
 - (1) If the sign for which the permit was issued has not been completed and erected within a period of six months after the date of the permit.
 - (2) Thirty days after a business closes or ceases to operate if no new business is established at that location. It shall be the responsibility of the owner of the building to see that any sign is removed which pertains to a business which has closed.

If the owner does not remove signs as provided under section 54-193, the enforcement officer will follow the procedures outlined in section 54-195 to effect removal.

- (f) Subject to the provisions of section 54-187, final inspection is required on completion and installation of all signs to determine that the sign conforms to the permit issued pursuant to the provisions of this division. The sign permit applicant is responsible for obtaining final inspection, and failure to do so will constitute a violation with penalties as prescribed under section 54-38(d).

(Code 1985, § 10-6-9; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-190 GENERAL REGULATIONS.

- (a) *Moving of signs; changing copy.* Moving an approved sign to a new location or changing copy on an existing sign shall require a new permit, except for signs with movable letters as described in section 54-191(a)(7). The appropriate enforcement officer shall be notified prior to the move or change in order to:
 - (1) Ascertain that the sign meets the conditions of this division.
 - (2) Update records.

- (b) *Permit not required for painting, cleaning or repair.* Maintenance consisting of painting, cleaning or repair of an existing sign does not require a new permit unless a structural or copy change is made.
- (c) *Maintenance required.* Maintenance of signs consisting of painting, cleaning or repair is required to maintain signs in the same condition and appearance as when originally installed.
- (d) *Erection of signs on or over public property.* No sign shall be erected or maintained on or over public property, unless licensed by the council, subject to approved criteria. However, wall signs may project over a front property line when the building wall is less than one foot from the property line, provided that such sign shall not impede or endanger pedestrians or vehicular traffic and shall project no more than one foot from the wall.
- (e) *Special encroachments.* Special encroachments on Highways 48 and 70 may be allowed by the state highway and transportation department, such as decorations and banners advertising special events when erected by governmental authorities. Encroachments may be allowed for a limited time provided they provide minimum 18-foot clearance and do not interfere with traffic control devices and signs.

(Code 1985, § 10-6-10; Ord. No. 97-07, § 1, 7-29-97; Ord. No. 98-12, 5-26-98)

Sec. 54-191 REGULATIONS FOR SPECIFIC SIGNS AND USES; SIZE LIMITATIONS.

- (a) *Sign types.*
 - (1) *Freestanding signs.*
 - a. A freestanding sign shall not exceed 35 feet in height, and must have at least eight feet between the base of the sign and the ground, and may not restrict view of traffic. Freestanding signs shall not exceed 150 square feet in area except for shopping center signs as provided under subsection (b)(5) of this section, or as approved by the planning commission.
 - b. An area directly under the freestanding sign shall be landscaped at the base of the sign.
 - c. The premises around the freestanding sign shall be maintained by the sign owner in a clean, sanitary and inoffensive condition and shall be free and clear of obnoxious substances, rubbish and weeds.
 - d. A minimum sight line triangle measured 20 feet along the right-of-way line from the base of the sign and ten feet in depth at a right angle to the right-of-way line 20 feet in distance from the base of the sign shall be maintained.
 - (2) *Projecting signs.* The bottom of projecting signs shall be at least eight feet above the ground or sidewalk and shall not project more than four feet from the supporting wall. No projecting sign may rise above the roofline or parapet, and signs may not project into the public right-of-way.
 - (3) *Hanging signs.* The minimum height to the bottom of a hanging sign shall not be less than eight feet above the ground or sidewalk, and signs shall be not more than six inches thick. Hanging signs shall be secured, fastened to support beams and supported by heavy chain or material of like strength.
 - (4) *Wall signs.* Maximum projection of a wall-mounted sign shall be six inches, unless the bottom of the sign is at least eight feet above the ground or sidewalk, in which case the maximum projection shall be 12 inches.

- (5) *Window signs.* Permanent signs painted in a window shall be measured by the area enclosed within a sign border, or if no border exists, the area of the minimum imaginary rectangle enclosing the words and symbols and spaces between them. Neon or similar sign devices mounted in a window area shall be measured on the same basis.
 - (6) *Marquees.* Maximum projection of marquees shall be eight feet from the supporting wall, and there must be not less than ten feet from the bottom of the marquee to the ground or sidewalk. The marquee may not be erected or maintained on or above the public right-of-way.
 - (7) *Signs with movable letters.* The movable letter portion of any one sign shall not exceed 70 percent of the total area of that particular sign, except for electronic signs which are allowed full movement of the sign message.
 - (8) *Ground signs.* Ground or low-profile signs shall only be permitted when set back a minimum distance of ten feet from the property line. Signs may be installed at or above grade level. Ground signs shall not be installed within the sight line triangle of streets or driveways and shall not restrict view of traffic. Ground level signs shall not exceed 100 square feet in area, except for shopping center signs as provided under subsection (b)(5) of this section or as approved by the planning commission. Ground sign installation shall conform to the provisions of subsections (a)(1)b and c of this section.
 - (9) *Canopy and awning signs.* Signs on canopies and awnings shall be measured by the area enclosed by a border or imaginary triangle enclosing the words, symbols or spaces between them. Awnings may be constructed of canvas, plastic or similar materials.
 - (10) *Banner signs.* A banner sign is a sign printed on lightweight, flexible material such as cloth, canvas or plastic. Each business shall be allowed a banner four times per calendar year in increments up to 14 consecutive days, not to exceed a total of 56 days per year. A permit fee set from time to time and listed in the fee schedule in appendix A to this Code will be required per each 14-day period. Banners shall not exceed a total of 32 square feet. Banners shall be attached flat against a wall or structure of the business which is permitted for such banner, or between the supports of a permitted freestanding sign. Banner area does not count against allowable sign area.
 - (11) *Neon signs.* Neon signs or similar tube signs are permitted sign types. Sign area shall be measured by the area enclosed within a sign border, or if no border exists, the area of a minimum imaginary rectangle enclosing the words, symbols and spaces between them.
- (b) *Sign sizes; regulations for specific uses.* Seventy percent of the total allowable signage must be permanent signs. The remaining 30 percent may be devoted to signs of a temporary nature if not otherwise prohibited by this division. Sign permits shall be obtained for both permanent and temporary signs.
- (1) *Commercial businesses, all categories.* The amount of signage shall be computed using the formula 0.076 times the square footage of the front of the building as designated by the owner or leaseholder. This amount of sign footage may be used as wall mounted, freestanding or a combination of both. The amount of signage for a business conducted on a property which has no permanent business structure or structures of less than 250 square feet shall be allowed one freestanding sign based on the linear feet of lot frontage, as follows:

Lot frontage (linear feet)	Sign area (square feet)
0—150	32
150—300	64

301—600	100
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Lots in excess of 600 linear feet shall be allowed two freestanding signs, provided that signs are separated by a minimum distance of 300 linear feet.

- (2) *Corner lots.* In addition to signs allowed on the front of buildings, wall-mounted signs only shall be allowed on the side of a building which fronts on a side street. Square footage shall be determined by using the formula of 0.076 times the square footage of the designated side of the building. This sign area may not be transferred to any other area of the premises.
- (3) *Churches.* Churches shall apply for approval of their signs, and shall be allowed square footage as determined by using the formula of 0.076 times the square footage of the designated front of the building.
- (4) *Buildings with multiple tenants.* In cases of more than one business located within one building (but less than four businesses), the owner of the building shall determine the percentage of the total allowable sign size which each business within the building is allowed. The total amount of square footage of signs erected, for all businesses within the building, shall not exceed the total amount allowed as determined by the formula.
- (5) *Shopping centers.*
 - a. To be designated a center, four or more shops or businesses must be on the premises. Shopping centers may be comprised of one or more tracts or ownerships maintaining a center identity under written agreement.
 - b. A center is allowed one freestanding sign for the purpose of identification of the center and of the businesses therein.
 1. The size of the freestanding sign shall be computed from the formula of one square foot of sign space per each linear foot of the designated front of the property, with a maximum of 200 square feet allowed.
 2. At least 50 percent of the center sign shall designate the shopping center, and the remaining 50 percent shall or may be used for riders to advertise the individual businesses within the center.
 - c. A center is also allowed wall-mounted signs using the formula of 0.076 times the square footage of the designated front of each building, as in provided in subsection (b)(1) of this section.
 - d. Individual businesses within shopping centers in the C-3 business district may have one projecting sign pursuant to subsection (a)(2) of this section, provided that such sign shall not exceed ten square feet and shall not project into the traveled roadway.
 - e. A temporary freestanding on-site sign may be allowed for a business within a center prior to erection of a center sign. Such temporary sign shall be removed within 30 days following construction of a center sign. Temporary signs must be joint signs with other businesses within the center wherever possible.
- (6) *Across-street banners.*
 - a. The maximum size allowed shall be three feet by 30 feet on street banners advertising a community or civic event as defined in subsections 54-194(11)b and (11)c and at a location

approved by the council and the state highway and transportation department district office in the village.

- b. There shall be one approved location on Mecham and one approved on Sudderth for across-street banners. The council shall approve the poles used to support such banners.
- c. A banner may be displayed up to 14 days prior to an event and must be removed within three days after the event.
- d. Applications shall be submitted to the village manager at least 90 days prior to the event. The village manager shall develop policies, and the manager (or designee) shall resolve conflicting requests in a fair and equitable manner.

(7) *Civic and quasipublic off-premises signs.*

- a. Off-premises name, directional and information signs of service clubs, places of worship, civic organizations and quasipublic uses shall not be more than four square feet in area. Sign height shall not exceed 16 feet.
- b. If a need exists for more than one such sign at one location, all such signs must be consolidated and confined within a single frame.

(8) *Commercial, off premises directional signs.*

- a. No off-premises sign shall be nearer than 200 feet to any other off-premises sign. There shall be no more than one off-premises sign per location. Commercial off-premises signs shall not be placed on any residential zoned property.
- b. No directional advertising sign of the same commercial enterprise shall be nearer than one mile to any other off-premises sign advertising the same commercial enterprise. The one-mile distance shall be determined from point to point on any single highway, street or other public thoroughfare. This provision shall not be construed as prohibiting off-premises signs within one mile of each other advertising the same commercial enterprise, where off-premises signs are located on different highways, streets or public thoroughfares.
- c. Off-premises sign areas shall not exceed 32 square feet.
- d. Off-premises directional advertisement signs shall pertain only to a business conducted on a site within the village limits or within two miles extraterritorial of the village if approved by the planning commission. The area of any off-site sign, when added to the area of any existing business sign, shall not exceed the allowable sign area for the business being directionally advertised. Off-premises signs are allowed only for businesses without frontage on Highway 48, Mechem Drive, Sudderth Drive or Highway 70. Signage shall not count against allowable sign area of the property where the off-premises sign is located.
- e. Off-premises signs may be placed on vacant property but shall be limited as to size based on allowable signage for property with no permanent structure as set forth in subsection (b)(1) of this section but in no event to exceed 32 square feet.
- f. Businesses with allowable square footage for off-premises signage shall be limited to two signs per business.

(9) *Residential signs:*

- a. Multifamily premises or mobile home parks with up to 24 dwelling units may have wall signs identifying the development or apartments, provided the signs are mounted flush to the perimeter wall or fence and the total sign area does not exceed 32 square feet. There shall be no more than five words which contain any character equal to or exceeding six inches in

height. However, words with characters of less than six inches in height may be used without limit as to number.

- b. Multifamily premises or mobile home parks with more than 24 dwelling units may have signs identifying the premises as follows: Multifamily premises may have wall- or fence-mounted signs, provided the signs do not exceed 40 square feet. Mobile home parks may have wall- or fence-mounted signs, provided the signs do not exceed 100 square feet. Multifamily premises or mobile home park wall-mounted signs may have no more than five words which contain characters equal to or exceeding six inches in height. However, there shall be no limit to words containing characters of less than six inches in height, except as limited under subsection (b)(1) of this section.

(10) *Service station canopy signs.* The area of signs allowable for freestanding canopies over service station service islands or like installations shall be calculated based on 1.5 times the horizontal plane of the canopy structure times 0.076. Not less than 25 percent of the allowable sign area shall be on the canopy facade. The allowable area for canopy signs shall be in addition to allowable sign area for other structures on the premises.

(11) *Resort signs.* Resorts shall be permitted, as *conditional uses*, signs in addition to those otherwise identified herein according to the following provisions:

a. Definition.

- 1. *Resort.* A *resort* is a hotel, under one roof or consisting of detached buildings, containing at least 200 guest rooms, together with at least seven of the following additional amenities:

Dining facilities: at least two restaurants which, together or separately, provide full meal service;

Lounge;

Golf course—18-hole championship;

Casino licensed by the State of New Mexico or qualifying as an Indian casino recognized by the State of New Mexico;

Horse or dog race track;

Tennis courts(s);

Swimming pool;

Day spa;

Retail shopping—minimum two separate shops;

Theater: performing arts or film;

Horseback riding;

Outfitting for hunting, fishing, camping, eco-tours and the like.

- 2. *Location.* A *resort* is a facility located within the municipal limits of the Village of Ruidoso or the City of Ruidoso Downs, or in the unincorporated areas of Lincoln County within two (2) miles of the village limits of the Village of Ruidoso, or within the Mescalero

Apache Reservation within two miles of the Lincoln County line.

3. *Ownership.* All aspects of a resort shall be under unified ownership, except to the extent that condominium units may be separately owned.
- b. *Sign size.* Sign size shall be constrained by the structure upon which it is mounted. The structure on which the sign is mounted shall not exceed 20 feet in height nor 20 feet in width, except upon approval by the planning commission as a conditional use.
- c. *Sign location.* Resort signs may be located both on-premises and off-premises, according to other provisions of this code, provided that the square footage of the off-premise location(s) shall not count against the on-premise size limitations, and provided further that no resort sign shall be located in the C-3 (midtown commercial) district.
- d. *Sign features.* Resort signs may incorporate all features otherwise included in this code, together with industry additions such as LED signs, and the like, provided, that plastic back-lit signs and marquee signs with manually changeable letters are prohibited.
- e. *Sign structure.* All signs shall be ground-mounted or building-mounted. Pole signs are prohibited.
- f. *Landscaping.* The area immediately adjacent to the sign shall be professionally landscaped in a minimum area not less than the total size of one face of the sign structure.

(Code 1985, § 10-6-11; Ord. No. 97-07, § 1, 7-29-97; Ord. No. 98-12, 5-26-98; Ord. No. 99-22, 10-26-99; Ord. No. 2004-14, 7-27-04)

Sec. 54-192 ILLUMINATION.

- (a) Light from any source intended to illuminate a sign shall be shaded, shielded or directed in such a way so that the light intensity or brightness shall not adversely affect the safe vision of pedestrians or vehicle operators on public and private streets, driveways or parking areas and shall not adversely affect any surrounding premises. Illumination from any sign shall not interfere with the effectiveness of any official traffic sign, signal or device.
- (b) Signs involving the use of revolving lights, beacons, strobe lights or spotlights are specifically prohibited.

(Code 1985, § 10-6-12; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-193 PROHIBITED SIGNS.

The following signs are prohibited:

- (1) Signs contributing to confusion of traffic control lighting, unauthorized signs, signals, markings or devices which purport to be or are imitations of official traffic control devices or railroad signs or signals, or signs which hide or interfere with the effectiveness of any official traffic control devices.
- (2) Unauthorized signs which attempt to control traffic on the public right-of-way.
- (3) Signs with audible devices.
- (4) Freestanding signs with overhead wiring to supply electricity. However, off-premises signs are excluded unless underground power lines supply the site.

- (5) Banners, except as otherwise allowed by this division, and portable signs of any type, including signs placed in or carried on vehicles.
- (6) Canopy signs, if the bottom of the sign is less than eight feet above grade.
- (7) Building-mounted signs which extend above the roofline of the building, except on approval by the planning commission. Angle irons or similar supports shall not be visible from public rights-of-way; guy wires or cables may be visible.
- (8) Signs with missing letters (including approved signs with movable letters) or signs which are in a state of disrepair.
- (9) No sign, except an approved banner, may hang over, or in, any public right-of-way, unless licensed by the council, subject to approved criteria.
- (10) Billboards or other off-premises signs relating to a business not located within the village limits or within two miles extraterritorial.
- (11) Signs of temporary construction shall not be used as permanent exterior signs.
- (12) Flag signs with the name of a business, name of products, words or numbers, except as provided in subsections 54-194(10) and (17).
- (13) Inflatable signs and tethered balloons.

(Code 1985, § 10-6-13; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-194 SIGNS NOT REQUIRING PERMIT.

Provided they conform to all other portions of this division as provided, the following types of signs do not require a permit:

- (1) Nonilluminated names of buildings, dates of erection, monuments, citations, commemorative tablets and the like are allowed when carved into stone, concrete, metal or any other permanent type construction and made an integral part of an approved structure, or made flush to the ground (but not obstructing view of traffic).
- (2) Signs required by law or signs of a duly constituted governmental body, traffic signs or directional signs which are approved by the village council, are allowed.
- (3) Signs placed by a public utility for the safety, welfare or convenience of the public are allowed, such as signs identifying high voltage, public telephones or underground cable.
- (4) Signs upon a vehicle are allowed, provided that any such vehicle with a sign face of more than two square feet is not conspicuously parked so as to constitute a sign. Nothing in this subsection prevents such a vehicle from being used for bona fide delivery and other vehicular purposes.
- (5) Holiday decorations.
- (6) Special political signs on private property shall be allowed up to a total area of six square feet in area for each premises in a residential zone and up to 32 square feet for each sign in a nonresidential zone. Special political signs may be erected no earlier than 45 days prior to any primary election, general election or municipal election, and they shall be removed within ten days after the election to which the sign pertains or after the termination of a candidacy, whichever occurs first. Signs shall be maintained as specified under subsection 54-190(c).

- (7) One construction sign shall be allowed for all building contractors, one for all professional firms, and one for all lending institutions on premises under construction. Each sign's area shall not exceed 32 square feet, and not more than a total of three such signs are allowed on the premises. Such sign shall be confined to the site of construction, construction shed or construction trailer and shall be removed within 14 days of the beginning of the intended use of the project.
- (8) Real estate signs are allowed as follows when located on property for sale, rent or lease (not to be confused with the business sign on the real estate office):
- a. One temporary real estate sign located on the property it refers to shall be allowed for each street frontage of developed premises or undeveloped lot of less than two acres. Signs shall be removed within 14 days after sale or complete leasing.
 1. In residential zones, the signs shall not exceed six square feet in area, including name identification riders. An additional add-on sign area of one-half square foot indicating that the property has been sold or leased is allowed.
 2. In nonresidential zones, the signs shall not exceed eight square feet in area on improved lots and 16 square feet in area on unimproved lots.
 - b. One temporary real estate sign not exceeding 16 square feet in area and located on the property it refers to shall be allowed for each lot of two acres or more. If the lot has multiple frontage, one additional sign not exceeding 16 square feet in area shall be allowed on the property, to be placed facing the additional frontage. Under no circumstances shall more than two sign units be allowed on the lot. Signs shall be removed within 14 days of sale or complete leasing.
 - c. Temporary real estate directional signs not exceeding four square feet in area, three feet in height, and four in number, showing a directional arrow and placed on private property, may be allowed on approach routes to an open house.
 - d. Up to two temporary subdivision identification signs located on the vacant residential property shall be allowed for each subdivision or builder's development of ten lots or more. Such signs shall not exceed 32 square feet in area, and sign height shall not exceed 35 feet. Signs shall not be displayed prior to the date of the recording of the plat and shall be removed upon completion of the project.
 - e. The height of real estate signs shall not exceed five feet when located in a residential zone.
- (9) Signs located inside a building or structure for temporary sale notices or play bills, and so located as to be conspicuously visible and readable from outside the building or structure, are allowed.
- (10) Signs designating "open" or "closed" are allowed, provided that they are limited to one per business and 15 square feet or less in area.
- (11) Banners advertising community or civic events maintained for a temporary period of not in excess of one month prior to the event and not more than seven days after the close of the event are allowed. Banner shall not exceed 32 square feet and shall be limited to the following locations:
- a. School House Park, tennis court area.
 - b. Two Rivers Park, Chamber office.
 - c. Free parking lot, Midtown area.

Community or civic events advertised at the above locations shall be those which are either sponsored by non-profit organizations, approved for expenditures of lodger's tax funds, or approved by the village

council according to the lodgers' tax criteria of chapter 2, article IV, division 3. The village council may authorize additional locations for banner display within the areas approved for community or civic events to facilitate crowd control. Banners provided to sponsor of community or civic events may contain a logo or other donor identification of not more than ten percent of the banner area.

- (12) Official national, state or village flags are allowed for any period of time.
- (13) Residential name and street address signs are allowed. A resident's name sign not exceeding three square feet in area per face shall be allowed for each house or townhome. Street address signs shall not exceed three square feet. Premises may have one freestanding sign at any location on the site; provided, however, premises with more than 750 linear feet of public street frontage may have one additional freestanding sign for each 500 feet of additional frontage or fraction thereof. However, no sign shall exceed 16 feet in height or 32 square feet per sign face.
- (14) Parking or directional signs in a private parking lot are allowed, not to exceed four square feet.
- (15) Business identification on vehicles used for company or business use is allowed where the sign is permanently painted on a vehicle or where the sign is magnetically attached to the side of the vehicle. Advertisement place cards may also be placed on vehicles classified as common carriers.
- (16) Incidental signs. A sign, generally informational, that has a purpose secondary to the business on the lot on which it is located, such as entrance, exit, parking, loading, telephone, no smoking, user directions or instructions and other similar directions. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.
- (17) Flags containing logos or emblems.
- (18) Signs located within an enclosed sports complex for view by sports event participants and spectators only and under the following conditions:
 - a. Signs may be banners or signs of permanent materials attached to or placed within 18 inches of fenced, enclosed play areas and directed for viewing from the field of play. Sign shall not be directed toward public right-of-way or adjoining properties. Banner or sign placement is regulated by the facility manager.
 - b. Area of banner or sign shall not exceed 32 square feet. Banners shall have wind slits to reduce wind resistance.
 - c. Signs shall be displayed only during sports events and shall be removed immediately thereafter. Permanent signage is not allowed.
 - d. Type of sign, placement and manner of attachment or installation must be approved by the village park and recreation director when displayed on village property or property under village control.
 - e. Signage shall not count against allowable sign area for business or pursuit being advertised nor property where signage is located.
 - f. For purposes of this section the following are designated as sports complexes; and are exempt from the provisions of subsection 54-191(b)(8):
 - 1. White Mountain Recreational Complex.
 - 2. Eagle Creek Ball Fields.
 - 3. School House Park Tennis Courts.
 - 4. North Park Complex.
 - 5. Ruidoso High School Playing Fields.
 - 6. Middle School Football Field.

- g. Other properties may be designated as a sports complex by the planning and zoning commission subject to conditions a. through f. above.

(Code 1985, § 10-6-14; Ord. No. 97-07, § 1, 7-29-97; Ord. No. 98-19, § 1, 12-8-98; Ord. No. 99-03, 3-9-99; Ord. No. 2000-18, 12-12-00)

Sec. 54-195 VIOLATIONS; REMOVAL OF UNLAWFUL SIGNS.

- (a) A sign permit shall be issued for all signs regulated by this division and shall be maintained on the premises where the sign is located, except that all off-premises sign permits shall be maintained on the premises of the permittee.
- (b) Any sign existing prior to the effective date of this article for which the necessary approval and sign permit was not obtained pursuant to the provisions of any previous code shall continue to be illegal and shall be removed or brought into conformance with this division, and, further, the owner thereof shall continue to be liable for the penalties described in this section.
- (c) The code enforcement officer shall give seven days' notice, in writing, by certified mail, to the owner of any sign erected without approval or otherwise in violation of this division, informing the owner that the sign must be brought into conformance with this division or must be removed.
- (d) Upon failure to remove the sign or to comply with this notice, the code enforcement officer shall have the sign removed. Any cost of removal incurred by the village shall be assessed to the owner of the property on which such sign is located and may be collected in the manner of ordinary debt or in the manner of taxes, and such charge shall be a lien upon the property and may be filed with the county clerk in the manner that municipal liens are filed.
- (e) In addition, any person who violates any provision of this division shall be punished by a fine as provided in section 54-38, except that notice and penalty for violation of subsection 54-191(a)(10) pertaining to banners shall be as provided below:
 - (1) First violation—warning and order for immediate removal.
 - (2) Second violation—citation issued, each day constitutes a separate violation with penalty of a minimum of \$25.00 per day.
 - (3) Third and successive violations—citation issued, each day constitutes a separate violation with penalty of a minimum of \$50.00 per day plus the loss of allowable days in the current and the successive year.
- (f) Nonconforming or illegal signs required to be removed shall be deemed to be amortized after the expiration of the time period specified under section 54-193(b). The amortization period shall equal just compensation for constitutional and statutory purposes.
- (g) Signs placed in the public right-of-way in violation of this division may be removed by the code enforcement officer. Such signs shall be disposed of or destroyed if not claimed within 15 days of removal.

(Code 1985, § 10-6-15; Ord. No. 97-07, § 1, 7-29-97)

Sec. 54-196 ADVERTISEMENT ON PUBLIC PROPERTY.

- (a) It shall be unlawful to tack or place any sign, bill, banner, poster or advertisement of any nature in the public right-of-way except as provided under this division.
- (b) Political signs may be located in the public right-of-way for periods specified under subsection 54-194(6). Applications for such sign permits shall be submitted to the village clerk. The size of the sign is limited as to size under section 54-194(6). Signs shall be maintained as specified under subsection 54-190(c). Signs for the same candidate shall be spaced a minimum of 300 feet apart and shall be no closer than ten feet from signs for another candidate. No political sign shall be placed on or adjacent to public parks, buildings or facilities. Signs placed in any sight line triangle shall not exceed 30 inches in height nor be closer than ten feet from edge of pavement. Signs shall not distract or interfere with traffic control signs.
- (c) No such permit shall be issued unless a permit fee is paid and there is deposited with the village clerk the sum as set from time to time and listed in the fee schedule in appendix A to this Code. The deposit sum shall be returned to the applicant if the applicant causes all such signs, posters or advertisements to be removed within the time prescribed by this division. If such applicant does not cause the removal of such signs, posters or advertisements within such time, then the deposit shall be forfeited to the village. The permit fee is not refundable.
- (d) The provisions of this division shall not apply to notices posted by order of court or notices to the public required by law to be posted in a public place.

(Code 1985, § 6-2-14; Ord. No. 97-07, § 1(10-6-15), 7-29-97; Ord. No. 98-19, § 2, 12-8-98)

Sec. 54-197 SECS. 54-197—54-220. RESERVED.

DIVISION 9: HOME OCCUPATIONS¹⁰

Sec. 54-221 GENERALLY.

A home occupation is an accessory use of a dwelling unit, conducted entirely within the dwelling unit, carried on by one or more persons, all of whom reside within the dwelling unit, and where no persons are employed other than resident and domestic help. The use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part. There shall be no outside storage of any kind. Any indoor storage, construction, alterations, or electrical or mechanical equipment used shall not change the fire rating of the structure or the fire district in which the structure is located. The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time. It shall not cause an increase in the use of one or more utilities (water, sewer or garbage) so that the combined total use for dwelling and home occupation purposes of one or more utilities exceeds the average for residences in the neighborhood. When a use is a home occupation, it means that the owner, lessee or other persons who have a legal right to the use of the dwelling unit also have the vested right to conduct the home occupation without securing special permission to do so. However, such person shall be subject to all conditions set forth in this article, such as zoning certification and off-street parking requirements, and shall be subject to all other permits required by the village, such as building permits and business licenses, and are required to check with village officials and obtain necessary approvals before establishing such home occupations.

¹⁰Cross reference(s)—Businesses, ch. 26Cross reference(s)—.

(Code 1985, § 10-7-1)

Sec. 54-222 INTENT OF DIVISION.

It is the intent of this division to eliminate as home occupations all uses except those that conform to the standards set forth in this division. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The standards for home occupations in this division are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood, and a clearly secondary or incidental status in relation to the residential use of the main building, as the criteria for determining whether a proposed accessory use qualifies as a home occupation.

(Code 1985, § 10-7-2)

Sec. 54-223 CONDITIONS FOR CONDUCT OF HOME OCCUPATION.

Home occupations are permitted accessory uses in residential zones only so long as all the following conditions are observed:

- (1) Such occupation shall be conducted solely by resident occupants in their residence.
- (2) No more than one room or 25 percent of the gross area of one floor of the residence, whichever is less, shall be used for such purposes. Use of accessory buildings or garages for these purposes is prohibited.
- (3) No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure or the fire district in which the structure is located.
- (4) No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, garbage, etc.) so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood.
- (5) There shall be no outside storage of any kind related to the home occupation.
- (6) The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time.
- (7) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

(Code 1985, § 10-7-3)

Sec. 54-224 EXAMPLES OF PERMITTED HOME OCCUPATIONS.

The following are typical examples of uses which can be conducted within the limits of the restrictions established in this division and thereby qualify as home occupations; provided that uses which may qualify as

home occupations are not limited to those named in this section, nor does the listing of a use in this section automatically qualify the use as a home occupation: accountant, architect, artist, attorney at law, author, consultant, dressmaking, individual stringed instrument instruction, individual tutoring, insurance, millinery, preserving and home cooking, realtor.

(Code 1985, § 10-7-4)

Sec. 54-225 PROHIBITED USES.

The following uses, by the nature of the investment in operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, the following uses shall not be permitted as home occupations: auto repair, minor or major; barbershop; construction trades; dance instruction; dental offices; medical offices; painting of vehicles, trailers or boats; photo developing; photo studios; private schools with organized classes; radio repair; television repair; upholstery.

(Code 1985, § 10-7-5)

Sec. 54-226 —54-280. RESERVED.

ARTICLE III. SUBDIVISIONS

Sec. 54-281 GENERAL PROVISIONS.

- (a) *Policy.*
 - (1) It is hereby declared to be the policy of the village to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the village pursuant to the village comprehensive master plan and zoning code for the orderly, planned, efficient and economical development of the village.
 - (2) Land to be subdivided shall be of such character that it can be used safely for building without danger to health or peril from fire, flood or other menace, and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, protection of trees and hillsides, and capital improvements such as schools, parks, recreation facilities, transportation facilities and other public improvements.
- (b) *Purpose.* The purpose of this article is that of ensuring sites suitable for building purposes and human habitation, of providing for the harmonious development of the village, of providing adequate open spaces for traffic, recreation, light and air, of providing proper distribution of population, and of creating conditions favorable to the health, safety, morals and general welfare of the citizens.
- (c) *Statutory authority; territorial jurisdiction.*
 - (1) Authorization for the village to adopt subdivision regulations is given in NMSA 1978, § 3-19-6.

- (2) Platting jurisdiction for the village encompasses all the territory within the village and all territory within three miles of the village limits as provided in NMSA 1978, § 3-19-5.
- (d) *Interpretation; conflicting provisions.*
- (1) *Minimum requirements.* In their interpretation and application, the provisions of this article shall be held to be the minimum requirements necessary for the promotion of the public health and general welfare.
- (2) *Conflicting provisions.*
- a. *Public provisions.* This article is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law except as noted in this article. Where any provisions of this article impose restrictions different from those imposed by any other ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
- b. *Private provisions.* This article is not intended to abrogate any easement, covenant, or other private agreement or restriction, provided that, where the provisions of this article are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this article shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive than this article, and such private provisions are not inconsistent with this article or determinations thereunder, then such private provisions shall be operative and supplemental to this article and determinations made thereunder.
- (e) *Prior penalties, actions, liabilities or rights.* This article shall not be construed as abating any action now pending under or by virtue of prior existing subdivision regulations, or discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, or as waiving any right of the village under any section or provision existing at the time of adoption of the ordinance from which this article is derived, or as vacating and annulling any rights obtained by any person by lawful action of the village, except as shall be expressly provided for in this article.
- (f) *Amendments.* For the purpose of providing for the public health, safety and general welfare, the council may from time to time amend the provisions imposed by this article.
- (Code 1985, § 10-10-1)

Sec. 54-282 DEFINITIONS.

For purposes of this article, unless the context clearly indicates to the contrary, words used in the present tense include the future tense. Words used in the plural number include the singular. The word "herein" means "in." The word "person" includes a corporation, a partnership and an incorporated association of persons such as a club. The term "shall" is always mandatory. The term "building" includes "structure." The term "building" or "structure" includes any part thereof. The term "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied." The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant means the owner of land proposed to be subdivided, or his representative.

Block means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or boundary lines of municipalities.

Bond means any form of security, including a cash deposit, surety bond, collateral, property or instrument of credit, in an amount and form satisfactory to the council.

Building means any structure built for support, shelter or enclosure of persons, animals, chattels or movable property of any kind.

Capital improvements program means a proposed schedule of all future municipal improvement projects listed in order of construction priority, together with cost estimates and the anticipated means of financing each project.

Commission means the planning commission.

Comprehensive plan means the document (the Ruidoso Comprehensive Master Plan), or part thereof, officially adopted by the council, which provides for the development of the village and which indicates the general locations recommended for major roadways, parks, public utilities and buildings, and land uses.

Construction plan means the maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the council as a condition of the approval of the plat.

Cul-de-sac means a local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Developer means the owner of land proposed to be subdivided, or his representative.

Easement means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Engineer, village means the professional engineer engaged by the council.

Escrow means a deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond.

Final plat means the map, plan or record of a subdivision and any accompanying material, as described in this article.

Frontage means that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Grade means the slope of a road, street or other public way, specified in percentage terms.

Lot improvement means any building, structure, place, work of art or other object, or improvement of the land on which they are situated, constituting a physical betterment of real property.

Major subdivision means all subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four or more lots, or any size subdivision requiring any new street or extension of village facilities or the creation of any public improvements.

Minor subdivision means any subdivision containing not more than three lots fronting on an existing street, not involving any new street or road or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the comprehensive plan, the zoning code (article II of this chapter), the official zoning map or this article.

Model home means a dwelling unit used initially for display purposes which typifies the units that will be constructed in the subdivision.

Municipality means the village, as incorporated by state law.

Neighborhood park and recreation improvement fund means a special fund established by the village to retain monies contributed by developers in accordance with the "fee in lieu of land" provisions of this article, within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.

Nonresidential subdivision means a subdivision whose intended use is other than residential, such as commercial or industrial subdivisions.

Off-site means any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

Ordinance means any legislative action of a local government which has the force of law, including any amendment or repeal of any ordinance.

Owner means any person, group of persons, firm, corporation or other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under this article.

Performance bond means a bond filed with the Village Clerk and executed by a surety company holding a license to do business in the State of New Mexico, and acceptable to the Village of Ruidoso on a form approved by the village, in an amount of 125 percent of the cost of the improvements as certified by the council or designee. The performance bond shall be approved as to form by the village attorney.

Perimeter street means any existing street to which the parcel of land to be subdivided abuts on only one side.

Planning authority. The planning authority for the village shall be the planning commission.

Planning department means the department authorized by the council to administer this article.

Plat means a map, chart, survey, plan or replat, certified by a licensed registered land surveyor, containing a description of the subdivided land with ties to permanent monuments.

Preliminary plat means the preliminary drawings, described in this article, indicating the proposed manner of layout of the subdivision.

Public improvement means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the village may ultimately assume the responsibility for maintenance and operation, or which may effect an improvement for which the village responsibility is established.

Registered architect means an architect licensed and registered in the state.

Registered engineer means an engineer licensed and registered in the state.

Resubdivision means a change in a map of an approved or recorded subdivision plat, if such change affects any street layout on such map or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Right-of-way means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or trees, or for another special use.

Roadway means that portion of a street right-of-way intended for driving or parking.

Sale and lease mean any immediate or future transfer of ownership or any possessory interest in land, including a contract for sale, lease, intestate succession, or other written instrument.

Sketch plat means a sketch preparatory to the preparation of the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the planning commission as to the form of the plat and the objectives of this article.

Street is a general term used to describe a paved right-of-way, municipally or privately owned, serving as a means of vehicular travel. Streets are classified by function as follows:

- (1) *Local street* means a street intended to serve and provide access exclusively to the properties abutting thereon, and not connecting with other streets in such a manner as to encourage through traffic.
- (2) *Collector street* means a street connecting local residential streets to each other, to community facilities and to principal or minor arterial streets.
- (3) *Principal and minor arterial streets* means streets designed to carry large amounts of traffic across or through the village and designated as such by the comprehensive plan.
- (4) *Service street* means a street running parallel to a freeway, expressway or other roadway, and serving abutting properties, also called a frontage road.

Street, dead-end means a street or a portion of a street with only one vehicular traffic outlet.

Subdivide or subdivision, for the purpose of approval by the planning commission, means:

For the area of land within the corporate boundaries of the village, the division of land into two or more parts by platting or by metes and bounds descriptions into tracts for the purposes set forth in this definition; and

For the area of land within the village extraterritorial subdivision and platting jurisdiction, the division of land into two or more parts by platting or by metes and bounds description into tracts of less than five acres in any one calendar year for the purposes set forth in this definition.

The division of land pursuant to this definition shall be for the purpose of:

- (1) Sale for building purposes;
- (2) Laying out a municipality or any part thereof;
- (3) Adding to a municipality;
- (4) Laying out suburban lots; or
- (5) Resubdivision.

State law reference(s)—Similar provisions, NMSA 1978, § 3-20-1.

Subdivider means any person who, having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who, directly or indirectly, sells, leases or develops, or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit or plat in a subdivision; or who engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel, site or plat in a subdivision; and who is directly or indirectly controlled by or under direct or indirect common control with any of the persons mentioned in this definition.

Subdivision agent means any person who represents or acts for or on behalf of a subdivider.

Subdivision plat means the final map or drawings, described in this article, on which the subdivider's plan of subdivision is presented to the planning commission and the council for approval and which, if approved, may be submitted to the county clerk or recorder of deeds for filing.

Temporary improvement means improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.

Cross reference(s)—Definitions generally, § 1-2Cross reference(s)—.

Sec. 54-283 PLATTING PROCEDURES AND REQUIREMENTS.

(a) *Pre-application contact and sketch plat.*

- (1) Prior to the submission of a sketch plat as required by this article, the subdivider shall contact the planning administrator and any other administrative personnel or private agencies to determine:
 - a. Procedures and requirements for filing the sketch plat and preliminary and final plat.
 - b. Availability of public water and sewer, or requirements when public systems are not readily available.
 - c. Zoning requirements on the property.
 - d. Requirements of the duly adopted comprehensive plan for major streets, land use, schools, parks and other public open space.
 - e. The location and extent of any floodplains.
 - f. The location of forested areas and steep slopes as defined in article II of this chapter.
- (2) As a part of this contact, the subdivider may discuss with the planning department, or any other appropriate agency, its tentative proposals for the development of the property.
- (3) The subdivider shall submit, and the planning commission shall review and comment on, a sketch plat prior to the preparation of a preliminary plat. The planning commission shall make such a review and make its comments known to the subdivider in writing within five days from the date of the review. The sketch plat shall contain or show five-foot contours and the requirements of subsections (a)(1)a through f of this section.
- (4) The purpose of this pre-application procedure is to determine any problems with the proposed development before expenses are incurred in the preparation of a preliminary plat. No official action is required of the planning commission or other agencies, other than offering appropriate comments on the proposal and indicating suitability for proceeding through the platting process.

(b) *Preliminary plat.*

- (1) Preliminary plats shall be submitted in 15 copies and, if requested, a reproducible copy to the planning department. The preliminary plat shall consist of drawings and accompanying material and information as prescribed by this article.
- (2) The preliminary plat drawing shall be prepared at a scale of one inch equals 100 feet or larger for subdivisions where the majority of lots are less than five acres in size. The scale may be reduced to one inch equals 200 feet for subdivisions in which the minimum lot size is five acres or more. The face of the drawing shall contain the following information:
 - a. The name of the subdivision. The name shall not duplicate or too closely resemble the name of any subdivision previously filed in the county.
 - b. Date of preparation, scale and north arrow. The top or left side of each sheet shall represent north wherever possible.
 - c. A vicinity map drawn at a scale of one inch equals 1,000 feet, or one inch equals 2,000 feet, showing the location of the proposed subdivision in the village and its relationship to surrounding development.

- d. The name, address and telephone number of the developer or subdivider, and the individual or firm responsible for the preparation of the preliminary plat.
 - e. A legal description of the subdivision boundary.
 - f. The boundary lines of the subdivision in a heavy solid line, referenced to section or quarter section lines.
 - g. A description of all monuments, both found and set, which mark the boundary of the subdivision, and a description of all control monuments used in the survey.
 - h. Existing contours at a maximum interval of five feet unless waived by the planning department.
 - i. General location and extent of any significant natural features such as streams, drainageways, forested areas or steep slopes.
 - j. Floodplains as delineated on maps available in the planning department.
 - k. Location, dimensions and names of existing roads, streets, alleys, railroad rights-of-way and structures within 100 feet immediately adjacent to the property showing how they relate to the proposed subdivision layout.
 - l. Location, size and grades of existing sanitary and storm sewers and location and size of water mains, gas lines, pipelines or other underground utilities or installations within the proposed subdivision and within 100 feet immediately adjacent thereto.
 - m. Location and dimension of all easements of record.
 - n. Existing zoning and land use of the proposed subdivision and immediately adjacent areas.
 - o. Location and width of proposed streets, alleys, pedestrian ways and easements.
 - p. Layout, numbers and approximate dimensions of proposed lots and blocks.
 - q. Location, dimension and size in acres of all sites proposed to be used for commercial, industrial, multifamily residential, public or quasipublic use, with the use noted.
 - r. A summary of the total number of acres, number of lots, acreage of commercial or industrial areas, acreage of open space, and amount of land in rights-of-way, and other descriptive material useful in reviewing the proposed subdivision.
- (3) The following information and material shall be a part of any preliminary plat submittal and shall accompany the preliminary plat drawing:
- a. Payment of the total amount of the preliminary plat fee.
 - b. A statement explaining the proposed design and function of the water, sewage, paving, sidewalk and drainage systems, their compatibility with existing systems, and the timing and/or phasing of installation.
 - c. A statement describing the development and maintenance responsibility for any private streets, ways or open space.
 - d. The recommendations of a qualified professional engineer of the affected soil conservation district regarding soil suitability, erosion control, sedimentation and flooding problems.
 - e. A description of the phasing and scheduling of phases for the development, if the final plat is to be submitted in separate phases.
 - f. A petition for annexation to the village if the land to be subdivided is contiguous to and outside (either by itself or as part of a larger tract) the boundaries of the village.
 - g. An application for appropriate zoning for the subdivided area if the area is to be annexed or if the existing zoning district does not allow the types of uses proposed.
 - h. A completed preliminary plat checklist on the standard forms provided.

- (4) After receipt of the preliminary plat and all required supporting material, the planning department shall schedule the plat for consideration at the next regular meeting of the planning commission which occurs after 23 days from the date on which the plat was submitted, and shall, within three days, transmit copies to appropriate agencies and officials for their review and comment.
 - (5) Agencies receiving referral copies of the preliminary plat should return written comments on the plat to the planning department within ten days after receipt of the plat. Agencies may also present comments on the plat at the planning commission meeting at which the plat is considered.
 - (6) Upon receipt of all agency comments, or at the end of the ten-day period, the planning department will summarize the agency comments, add written comments and recommendations from the department itself, and present the material and recommendations to the planning commission for its consideration.
 - (7) Notice of any public meeting shall be accomplished as set forth in section 54-40.
 - (8) The subdivider, or his duly authorized representative, shall attend the planning commission meeting at which the proposal is scheduled for consideration.
 - (9) At the planning commission meeting, the subdivider and all other interested or affected parties shall be allowed to offer comments. Within 15 days of the meeting, the commission shall approve or disapprove the preliminary plat. Within ten days after the date of the meeting at which final action was taken, the commission shall notify the subdivider and the council of its decision. If conditions are attached to its approval, the subdivider and council shall be informed of such conditions.
 - (10) Within 30 days of receipt of the planning commission's recommendation, the council shall, by motion, act on the preliminary plat and the commission's recommendation, and shall send notices of its action to the commission and the subdivider. Upon approval of the preliminary plat, a 24-inch by 36-inch mylar of the preliminary plat shall be submitted to the village.
 - (11) Approval of the preliminary plat by the council shall be effective for six consecutive calendar months from the date of approval. The subdivider may apply in writing for, and the planning commission may, for cause shown, grant up to a six-month extension. If a final plat has not been submitted within this specified period on all or a portion of the land area included in the preliminary plat, a preliminary plat must again be submitted for approval. In a phased development, if there is any land area for which a preliminary plat has been approved and for which a final plat has not been submitted within 24 months from the date of the approval of the preliminary plat, the applicant shall not be allowed to proceed with final platting until a new preliminary plat is submitted and approved.
- (c) *Approval and contents of final plat.*
- (1) After approval of the preliminary plat, a final plat may be prepared and submitted. The final plat shall be prepared and certified as to its accuracy by a registered land surveyor licensed to do such work in the state. The final plat and required supporting material shall conform to the design and engineering standards set forth in this article and to any conditions of approval specified by the planning commission and council.
 - (2) Final platting may be accomplished in stages covering reasonable portions of the area of an approved preliminary plat. When this is done, each sheet of the final plat shall contain a vicinity map showing the location of the portion being submitted in relationship to the area for which the preliminary plat was submitted. All final plats so submitted shall be of the same scale, shall have identical titles, legends and other information, and shall have match lines so that mosaics of the entire subdivision can be developed. Each stage of the subdivision shall be as nearly self-sustaining and complete as possible and shall by itself, or in conjunction with previous stages, meet the design standards set forth in this article so that, if development of the entire subdivision is interrupted or discontinued after one or more stages are completed, a viable development will result.

- (3) The final plat shall be clearly and legibly drawn in black waterproof India ink upon tracing linen, mylar of 0.004 inch in thickness (minimum), or some similar stable base material. Required affidavits, certificates and acknowledgments shall be legibly printed on the plat in opaque ink. The sheet size of all final plats shall be 24 inches high by 36 inches wide. Information on the plat should be so positioned that a 1½-inch margin is on the lefthand side and a one-half-inch margin is shown on the remaining sides. The final plat shall be prepared at a scale of one inch equals 100 feet, or at a scale of one inch equals 200 feet for subdivisions in which the minimum lot size is five acres or more. Each sheet of the final plat shall be numbered, and the total number of sheets comprising the plat shall be stated on each sheet (for example, "Sheet 2 of 4"). The relationship of one sheet to the other shall be shown by key maps and by match lines.
- (4) The original linen or mylar, one reproducible copy (sepia not acceptable) and nine prints of the final plat and two copies of all required supporting material shall be submitted to the planning department at least 14 days prior to the planning commission meeting at which the final plat is to be considered.
- (5) The submitted final plat shall contain the notarized signatures of the owners of any and all equitable or legal interest in the land, of whatever nature, and the signature of the registered land surveyor who prepared the plat.
- (6) All final plats shall include the following information on the face of the plat:
 - a. The name of the subdivision, centered at the top of each sheet.
 - b. General location of the subdivision by section, township, range, county and state, entered under the name of the subdivision.
 - c. North arrow, date and scale.
 - d. Boundary lines of the subdivision in a heavy solid line.
 - e. Legal description of the subdivision boundary based on an accurate traverse, giving bearing and linear dimensions that result in a maximum allowable error of closure of one part in 10,000.
 - f. The location and description of the point of beginning and its proper reference to the monumented boundary survey.
 - g. The location and description of all monuments.
 - h. Bearings, distances and curve data of all perimeter boundary lines indicated outside of the boundary lines.
 - i. On curved boundaries and on all curves within the plat, sufficient data to allow the reestablishment of the curves on the ground.
 - j. The location and layout of lots, blocks, tracts, streets, alleys, easements and other public grounds within and immediately adjoining the plat, with accurate dimensions in feet and hundredths of feet, bearings, curve data, length of radii and/or arcs of all curves.
 - k. Drainage easements, clearly labelled as such.
 - l. The names of all streets.
 - m. All lots logically and consecutively numbered in the center of the lot.
 - n. All dimensions shown on irregularly shaped lots.
 - o. Parcels completely or partially surrounded by the area being subdivided, clearly marked "Excepted," and the common boundary with the subdivision shown in a heavy solid line with bearings and distances.
 - p. A notation of the total acreage of the subdivision and the total number of lots.
 - q. A notarized certificate by all parties having any titled interest in or lien upon the land, consenting to the recording of the plat and dedicating public ways, grounds and easements.
 - r. A notarized certificate of a registered land surveyor, registered under the laws of the state,

stating that the plat is true, accurate and complete.

- s. Certificate of review of the Public Works Department, as follows:

Data on this plat reviewed this ____ day of _____, _____, by the Public Workd
Department of Ruidoso, New Mexico.

Public Works Department	
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- t. Certificate of approval by the village planning commission, as follows:

This plat approved by the Village of Ruidoso Planning Commission this ____ day of _____,
A.D., _____.

Chairman	
ATTEST:	
Secretary	

- u. Certificate of acceptance and approval by the village council, as follows:

Approved by the Governing Body of the Village of Ruidoso, New Mexico, this ____ day of _____, A.D.,
_____.

Mayor	
ATTEST:	
Village Clerk	

- v. Certificate for recording by the county clerk and recorder, as follows:

This plat was filed for record in the Office of the County Clerk and Recorder at ____ o'clock
____.m., _____, _____, and is duly recorded in Book _____, Page No. _____.

County Clerk	
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- (7) The final plat shall be accompanied by the total amount of the final plat fee.
- (8) After receipt of the final plat, the planning department shall review the submittal for completeness and for conformance with the approved preliminary plat. The department may refer copies of the final plat

to and seek comment from other officials and agencies. Any such comments should be made known to the department within ten days after the date of submittal of the final plat.

- (9) The final plat shall be scheduled for the consideration of the planning commission at its next regular meeting after the 14-day review period. After due deliberation, the planning commission shall approve, conditionally approve, or disapprove the final plat. Approval of a final plat by the planning commission shall remain effective for 18 calendar months.
- (10) Within ten days after the date of the meeting at which final action was taken, the planning commission shall notify the subdivider and the council of its action. If the final plat is approved, the subdivider may proceed in accordance with subsection (d) of this section. If the final plat is disapproved by the commission or conditionally approved, and the subdivider wishes to appeal the conditions, the subdivider may request a hearing before the council appealing the action of the commission. The request shall be submitted in writing within 30 days of the action or decision appealed from and shall state the specific relief which the subdivider or landowner seeks. Within 30 days of the receipt of such a request, the council shall hold a hearing to determine the proper disposition of the matter. At the hearing, the council shall consider not only the subdivider's appeal, but also the written or verbal comments of the commission. The council shall either reaffirm or modify the decision of the commission, and shall note the decision in the record of its hearing. The subdivider or landowner may then proceed with the subdivision of his land based upon the decision of the council. This decision shall be binding upon all agencies and administrative personnel of the village.

(d) *Supporting materials for final plat; recording of final plat.*

- (1) *Required submittals.* A complete final plat submittal shall consist of the final plat as approved by the planning commission and all required supporting materials. Following approval of the final plat by the planning commission, the subdivider shall submit the following supporting material relating to the final plat to the planning department:
 - a. *Final plat checklist.* A final plat checklist shall be submitted on the standard forms provided.
 - b. *Drainage report.* A drainage report for the site in question and all pertinent off-site areas shall be prepared by a licensed engineer or hydrologist. The report shall examine 100-year storm flows (Q 100's), and the 100-year high-water mark of any river, creek, arroyo, gully, diversion ditch, spillway, reservoir, etc., that may in any way affect the project area, along with the depth of flow for 100-year runoff. The watershed in all off-site areas shall be considered fully developed. Intensities shall be for the area's one-hour 100-year storm based upon two inches per hour. Times of concentration (TC) used in the study shall provide for "C" to be 0.5 or greater, and the overlot flow time to gutters to be eight minutes, unless adequate evidence is provided to the contrary. A certificate shall be provided, signed and sealed by a registered professional engineer, that all drainage facilities utilizing gutters and streets are designed and sized to handle 100 percent of the Q 100 runoff.
 - c. *Soils report.* A soils report for the site in question and pertinent off-site areas shall be prepared by a licensed engineer or soil scientist. The report shall indicate the type and location of soils, using the unified soil classification system, shall contain drill logs and swell consolidation curves, and shall contain a discussion of any present or potential hazards associated with soils on the site along with measures which could be taken to mitigate such hazards. In addition, the soils report shall contain recommendations on subsurface area drains and peripheral drains, foundation design, erosion control measures and surface drainage.
 - d. *Grading, drainage and development plan.*

1. A grading, drainage and development plan shall be prepared at a scale of one inch equals 100 feet or larger showing rights-of-way, easements, walkways, parks, common areas, roadways, water lines and reservoirs, sewer lines, manholes and treatment facilities, curbs and gutters, culverts, drains, stormwater detention and retention basins, swales, ditches and other drainage devices, spot top of curb elevations, high and low street points, drainage arrows, street plans, all drainage areas and acreage, all 100-year storm flows (Q 100's) adjacent to and/or flowing onto the development and on-site at each surface flow junction, stormwater pickup and take-off points designed to handle 100-year flow on the surface, and cross sections and high water elevations for all 100-year flows. Spot elevations shall be given for all inverts, low points and flowing entry and exit points.
 2. For residential subdivisions, all minimum building setbacks shall be shown. No 100-year flow line shall encroach upon any minimum setback line.
 3. The following standards shall be used in preparation of the grading, drainage and development plan: 100-year storm flows shall not exceed 200 cfs per half street when feasible; pipes into which surface water flows will have a minimum diameter of 15 inches; and a capability for handling all Q 100's on the surface within the roadway. Exceptions and variations to these standards must be recommended by a licensed engineer and approved by the Public Works Department.
- e. *Construction plans and details.* Construction plans and details must be prepared by a registered professional engineer in the state and shall provide for all improvements indicated on the grading, drainage and development plan, including right-of-way and easement cross sections showing construction and placement of streets, walks, curbs, gutters, medians, swales, ditches, utilities, planting strips and property lines; details of hydrants, valves, manholes, pipe junctions, pumps, thrust-blocking, catchbasins, etc.; street profiles showing natural and finish grades, centerlines and both curbs, with a recommended minimum vertical scale of one inch equals 50 feet; sanitary sewer line and manhole profiles with natural and finished grades, showing area underdrains, if applicable, and the location of gravity outfall lines; storm drainage system profiles showing natural and finished grade; erosion control and revegetation details; and other details as necessary to adequately convey the design intent. Quantity take-offs shall also be provided.
- f. *Deeds.* When required by the village, assurance of a warranty deed or other acceptable instrument conveying to the village any public lands other than streets, alleys or easements shown on the final plat, and title insurance on the subject parcel, shall be presented to the village upon approval of the final plat. The method of assurance will be approved by the village attorney.
- g. *Fees in lieu of land.* Payment of any fees in lieu of public land dedication, or any initial payment and a payment schedule keyed to subdivision development, if the subdivision is to be phased, shall be submitted.
- h. *Title opinion.* Evidence satisfactory to the village must be submitted showing all taxes and assessments due on the property to be subdivided to be paid in full, showing title or control of the property to be subdivided, and showing the property to be subdivided as free and clear of any liens. An attorney's title opinion or ownership and encumbrance report from a land title company shall be considered satisfactory evidence.
- i. *Floodplain statement.* If a subdivision lies within the 100-year floodplain, the following statement shall appear on the face of the final plat and all contracts and agreements
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relating to the subdivision: "This subdivision is (or the following lots are) located in the 100-year floodplain as defined by the Department of Housing and Urban Development."

- j. **Performance bond.** A contractor's performance bond equal to 125 percent of the cost of required improvements to guarantee the complete and timely development of any facilities or improvements which are the subdivider's responsibility, subject to section 54-286(a)(1), shall be submitted.
- (2) **Agency review.** Upon submittal of all required supporting material to the final plat, the planning department shall review such material for completeness to determine whether a complete final plat submittal has been made and shall refer the material to appropriate agencies for review and comment. Upon being notified of the comments and any necessary approvals of reviewing agencies, the planning department shall forward the final plat, comments and approvals of reviewing agencies, pertinent supporting materials, and the recommendations of the planning commission to the council. Incomplete final plats, or final plats for which necessary approvals have not been secured, shall not be forwarded to the council for action.
 - (3) **Council action.** Following receipt of the recommendation of the planning commission, along with the final plat and accompanying materials, the council shall either approve the final plat or disapprove the final plat and notify the subdivider of the conditions to be met to gain approval. If a disapproved final plat is modified and resubmitted to the council at a later date for its consideration, the council may require the concurrent submittal of an updated ownership and encumbrance report or title opinion.
 - (4) **Filing with county clerk.** Upon approval of the final plat by the council, the subdivider shall be notified to submit payment for the recording fee to the planning department, and the department shall transmit the subdivider's recording fee and the duly approved and executed final plat to the county clerk and recorder for the filing of the final plat among the official records of the county.
 - (5) **Alternate approval procedure.** As an alternate procedure and at the request of the subdivider, the council may approve a final plat and instruct the planning department to withhold the approved final plat from recording for a period of time to allow the subdivider to install all of the required public improvements according to the plans and specifications approved by the Public Works Department. This procedure, when approved by the council, shall be in lieu of the guarantees for installation of improvements as set forth in section 54-286(a)(1). An executed standard contract, as approved by the village, regarding installation of improvements shall be submitted with the final plat. The contract shall require that all improvements be completed no later than 12 months from the date the final plat was approved by the council and that no lot may be sold. When the completed improvements are inspected and approved by the Public Works Department, the plat shall be recorded by the planning department, and the sale of lots may proceed according to the approved and recorded plat, provided that a one-year warranty shall be submitted covering the completed improvements as per section 54-286(b)(2)c.2.
- (e) **Simultaneous submittal of preliminary and final plats.** For certain subdivisions, the subdivider may, after discussion with the planning department, simultaneously submit both the preliminary plat and the final plat. Depending on the size and complexity of the subdivision and the amount of street dedication, any or all of the information required in the preliminary and final plat processes may be submitted. The planning department shall determine which information must be submitted for adequate review of the subdivision. The preliminary and final plats may then be processed concurrently. It is possible for the preliminary and final plats to be one and the same instrument.
 - (f) **Corrected plats and resubdivision.**
 - (1) If, after the approval and recording of a final plat, errors are found in the language or numbers on the recorded plat, the subdivider shall file a properly signed, corrected or revised original mylar or linen with the department. The plat shall be noted "Corrected Plat" under the name of the subdivision.

Notations shall be made on the face of the plat listing all corrections made and the book and page numbers where the original plat was recorded. The department shall review the plat for corrections, secure the signatures of the proper public officials on the corrected plat and present the plat to the council for the reaffirmation of its approval and to the county clerk for recording. The recording of the corrected plat shall void the incorrect original plat, and the county clerk shall note "Void" across the face of the incorrect plat.

- (2) If, after the approval and recording of a final plat, a subdivider wishes to modify the location of lot lines on part or all of the recorded plat, and if there is no change in the location or size of dedicated streets, the subdivider shall submit a new final plat drawing with the lotting arrangement revised. The planning department shall determine which of the required supporting documents shall be resubmitted with the revised final plat. The plat shall be marked "Resubdivision of _____" under the name of the subdivision and shall be processed as a final plat.
- (3) If, after the approval and recording of a final plat, a subdivider wishes to substantially change the street and lotting arrangement of a part or all of the platted area, the resulting subdivision shall be treated as a new submittal, with both a preliminary plat and a final plat required. Based on the current accuracy of the information submitted with the original plat and the magnitude of the change, the procedure described in subsection (e) of this section may be applied. The subdivision shall be identified as "Resubdivision of _____."

(g) *Alternate summary procedure for minor subdivisions.*

- (1) *Applicability.* In lieu of the requirements of NMSA 1978, § 3-20-7, the following procedure may be followed pursuant to NMSA 1978, § 3-20-8. Alternate summary procedures shall only apply to the following:
 - a. Subdivisions that create no more than two parcels of land or
 - b. Resubdivisions where the combination or recombination of portions of previously platted lots does not increase the total number of lots.
- (2) *Survey.* The filing of a survey by a New Mexico licensed or registered surveyor which contains a description of the subdivided land with ties to permanent monuments shall satisfy the requirements of NMSA 1978, § 3-20-7.
- (3) *Review by planning administrator.* All minor subdivisions submitted to the village shall be reviewed by the planning administrator, who may consult with other public or private agencies. The planning administrator shall determine whether or not the plat, as proposed, adequately provides for access and utility services to each lot. If the plat proposes to abandon an existing easement, the planning administrator shall verify with all applicable utility service providers that the easement is not needed.
- (4) *Conformance with subdivision regulations.* Any subdivision approved as authorized in this subsection shall be in substantial conformity with this article.
- (5) *Review and decision by planning commission.* Minor subdivision under this alternate summary procedure may be approved by the planning administrator and signed by the planning administrator and mayor. Review by the planning commission shall not be required except for those subdivisions which have been recommended for denial by the planning administrator and upon written request by the applicant.
- (6) *Review and decision by council.* Review and decision on minor subdivisions shall not be required by the council except for those which have been recommended for denial by the planning commission and upon written request by the applicant.

- (7) *[Endorsement of approval.]* Approval by this summary procedure shall be endorsed on the plat, or on the instrument of conveyance in lieu of a plat, and such approval shall be conclusive evidence of the approval by the village.

(Code 1985, § 10-10-3; Ord. No. 2008-11, 10-14-08; Ord. No. 2009-03, 1-13-09)

Sec. 54-284 ADMINISTRATION AND ENFORCEMENT.

(a) *Administration generally.*

- (1) This article shall be administered and enforced by the planning department or other agency as designated by the council.
- (2) All subdivision plats submitted to the village shall first have been examined by the planning department and the planning commission in accordance with the procedures established by this article. As part of their examination, the planning department and the planning commission may consult with other public or private agencies to determine whether or not the plat, as proposed, will contribute to the orderly growth and development of the village. The actions of the planning department, the planning commission and the council shall be governed by the procedures and schedules set forth in this article.
- (3) Pursuant to the provisions of NMSA 1978, §§ 3-20-5 and 3-20-7, when any part of a subdivision lies outside of but within three miles of the village, that subdivision shall be approved by the planning commission and the council before it is finally approved by the county board of commissioners.

(b) *Reserved.*

(c) *Variances.*

- (1) A request for variance may be submitted only after the planning commission has formally reviewed the preliminary plat and has either recommended disapproval because the plat does not conform to this article, or has conditionally approved the plat, specifying those amendments which must appear on the final plat in order for it to be approved. The subdivider may then seek relief from the specific provisions of this article with which he cannot comply.
- (2) When it can be shown that, in the case of a particular subdivision, strict compliance with the provisions of this article would cause undue hardship, the council may authorize a variance to this article provided that the general intent of this article is preserved, that the public interest is protected, and that such variances do not have the effect of nullifying the intent and purpose of the comprehensive plan or the zoning code (article II of this chapter). The granting of a variance shall be based upon findings by the council that:
 - a. The subdivider is proceeding in good faith.
 - b. There are unusual topographical or other special circumstances associated with the property which are not the result of any action of the subdivider and which prohibit the use of the property in a manner similar to the use of adjacent or nearby properties.
 - c. The variance is necessary for reasonable development of the property in question and will alleviate a clearly demonstrable hardship.
 - d. The variance will not nullify the intent or purpose of this article.
 - e. Granting the variance will not be detrimental to the general public health, safety and welfare.

- (3) Any variance granted shall constitute the minimum adjustment necessary to alleviate the hardship.
 - (4) All requests for variances shall be submitted in writing to the council and shall be referred to the planning commission for comments and recommendations prior to any action taken by the council. In granting a variance, compliance with the objectives and standards of this article must be ensured. The findings and action on each variance and any conditions imposed shall be recorded in the minutes of the council, and a copy thereof provided to the planning department.
 - (5) If the subdivision variance is granted by the council, the subdivider may incorporate the provisions of the variance into the final plat to be submitted to the planning commission and to the council for approval. In its review of the final plat, the planning commission shall be bound by the decision of the council regarding the variance and shall review and approve the final plat with the variance if the plat in all other respects conforms to the preliminary plat and any other conditions imposed by the planning commission.
- (d) *Plat vacations.*
- (1) Any plat may be vacated by the owners or proprietors thereof at any time before sale of any lots, or before any substantial improvements have been made in the subdivision, by submitting a copy of the plat to the planning commission along with a written request for a vacation. In the case where lots have been sold, the written request shall be by all of the owners of lots within the plat. The planning commission shall make a recommendation on the vacation to the council, and the council shall approve or disapprove the vacation. The recording of an instrument vacating the plat shall operate to destroy the force and effect of the recording of the original plat and to divest all public rights in the streets, alleys, and common and public grounds laid out or described in such a plat.
 - (2) Streets and alleys platted and laid out under the provisions of this article or laid out under any prior law of the state may be altered or vacated in the manner provided by law for the alteration or discontinuance of streets and highways.
 - (3) Any part of a plat may be vacated under the provisions and subject to the conditions of subsection (d)(1) of this section, provided such vacating does not abridge or destroy any of the rights and privileges of other proprietors in the plat, and provided further that nothing contained in this section shall authorize the closing or obstruction of any public highways laid out according to law. The request for vacation shall be made by all of the owners of lots within that portion of the overall plat sought to be vacated.
 - (4) When any part of a plat shall be vacated as provided in this section, streets, alleys and other public grounds shall be assigned to all lots or parcels adjacent to the public area being vacated in equal proportions.
 - (5) The county clerk shall write in plain, legible letters, across that part of the plat so vacated, the word "vacated," and also make a reference on the plat to the volume and page in which the instrument of vacation is recorded.
 - (6) Land covered by a vacated plat may be replatted as described by this article. Any replatting of an area already platted and not vacated shall be construed to be a request for the vacation of the original plat or portion thereof. Any such plat, once approved and recorded, shall act to vacate the original plat which it replaces.
- (e) *Penalty.* Any person who violates any provision of this article, and any person who, as an agent for a subdivider, developer or owner of subdivided lands, offers for sale any subdivided lands or subdivisions without first complying with the provisions of this article, shall, upon conviction, be punished in accordance with section 1-6.
- (f) *Exemption from liability.* The village shall hold harmless the planning department, other village agencies and officials, and their official agents and representatives, when acting in good faith and without malice, from all
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personal liability for any damage that may accrue to any person or property as a result of any act required by this article, or for the omission of any act on the part of the department, agency or official or their authorized agents in the discharge of their duties under this article. Any suit brought against the village or village administration because of any such act or omission in the carrying out of the provisions of this article shall be defended by the village attorney through final determination of such proceedings.

(Code 1985, § 10-10-4; Ord. No. 2009-03, 1-13-09)

Cross reference(s)—Administration, ch. 2Cross reference(s)—.

Sec. 54-285 DESIGN STANDARDS.

(a) *Generally.*

- (1) *Conformance to applicable rules and regulations.* Subdivision design shall conform to the following:
 - a. The village zoning code (article II of this chapter);
 - b. The comprehensive master plan of the village, including all streets, drainage systems and parks shown on the comprehensive master plan as adopted;
 - c. The rules of the state highway department if a subdivision or any lot contained therein abuts a state highway or connecting street; and
 - d. The design standards and regulations adopted by the council.
- (2) *Restrictions imposed by owner.* If the owner places restrictions on any of the land contained in the subdivision greater than those required by the zoning code (article II of this chapter) or this article, such restrictions or reference thereto may be required to be indicated on the subdivision plat, or the planning commission may require that restrictive covenants be recorded with the county recorder of deeds.
- (3) *Monuments.* The applicant shall place permanent reference monuments in the subdivision as approved by a registered land surveyor and the Public Works Department.
- (4) *Land unsuitable for development.* Land which the planning commission finds to be unsuitable for subdivision or development because of flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the planning commission, upon recommendation of the Public Works Department, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses that shall not involve such a danger.
- (5) *Subdivision name.* The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by this article. The planning commission shall have final authority to designate the name of the subdivision, which shall be determined at the time of sketch plat approval.
- (6) *Other considerations*

Subdivision design shall consider the standards contained in the following adopted Village of Ruidoso documents. These documents may be obtained from the Public Works Department.

 - a. Resolution 2011-28 A Resolution Adopting the Village of Ruidoso Standard Drawings for Public Works Construction

b. Ruidoso New Mexico Roadway Design Guide, November 2019

(b) *Lots and lot improvements.*

- (1) *Lot arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning code (article II of this chapter) or in providing driveway access to buildings on such lots from an approved street.
- (2) *Lot dimensions.* Lot dimensions shall comply with the minimum standards of the zoning code (article II of this chapter). Where lots are more than double the minimum required area for the zoning district, the planning commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the zoning code and this article. In general, side lot lines shall be at right angles to street lines, or radial to curving street lines, unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum setback from both streets. Depth and width of properties reserved or laid out for business, commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the zoning code.
- (3) *Double frontage and reserved lots; access from arterial streets.*
 - a. *Double frontage and reserved lots.* Double frontage and reserved lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.
 - b. *Access from arterial streets.* Lots shall not, in general, derive access exclusively from an arterial street. Where driveway access from an arterial street may be necessary for several adjoining lots, the planning commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on such streets. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterial streets.
- (4) *Grading and drainage.*
 - a. *Final grading.* No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat.
 - b. *Lot drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot onto adjacent lots.
- (5) *Removal of debris and waste.* No cut trees, debris, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy.
- (6) *Fencing.* Each subdivider and/or developer shall be required to furnish and install fences wherever the council determines that a hazardous condition may exist. The fences shall be constructed according to standards established by the zoning code (article II of this chapter) and shall be noted as to height and material on the final plat. No certificate of occupancy shall be issued until the fence improvements have been duly installed.

(7) *Performance bond.*

- a. The performance bond shall include an of 125 percent of the cost of completion of all requirements contained in subsection (b) of this section or as certified by the council, including but not limited to soil preservation, final grading, lot drainage, removal of debris and waste, fencing and all other lot improvements required by the council.
- b. Whether or not a certificate of occupancy has been issued, at the expiration of the performance bond, the village may enforce the provisions of the bond where the provisions of this section or any other applicable law, ordinance or regulation have not been satisfied.

(c) *Roads.*

(1) *General requirements.*

- a. *Frontage on improved street required.* No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street indicated in the comprehensive plan or unless such street is:

1. An existing state, county or township highway; or
2. A street shown upon a plat approved by the council and recorded in the county clerk's office.

Such street or highway must be suitably improved as required by the highway rules, regulations, specifications or orders, or be secured by a performance bond as required under this article, with the width and right-of-way required by this article or the comprehensive plan. Wherever the area to be subdivided is to utilize existing road frontage, such road shall be suitably improved as provided in this subsection.

- b. *Grading and improvement plan.* Roads shall be graded and improved and conform to the llage construction standards and specifications and shall be approved as to design and specifications by the Public Works Department, in accordance with the construction plans required to be submitted prior to final plat approval.

c. *Topography and arrangement.*

1. Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of this article.
2. All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established in the comprehensive plan.
3. Local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, to require the minimum number of streets necessary to provide convenient and safe access to property, and to maximize the preservation of trees and vegetation.
4. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless, in the opinion of the council, such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

d. *Blocks.*

1. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, waterways, parks, or areas that will remain undeveloped such as steep slopes or forested areas.
2. The lengths, width and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed 600 feet or 12 times the minimum lot width required in the zoning district.
3. In long blocks the council may require the reservation of an easement through the block to accommodate utilities, drainage facilities, emergency access or pedestrian traffic.

e. *Limitation of access to arterial streets.* Where a subdivision borders on or contains an existing or proposed arterial street, the council may require that access to such street be limited by one of the following means:

1. The subdivision of lots so that the lots back onto the arterial street and front onto a parallel local street. No direct access shall be provided from the arterial street.
2. A series of culs-de-sac, U-shaped streets or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial street.
3. A marginal access or service road, separated from the arterial street by a planting or grass strip and having access thereto at suitable points.

f. *Street names.* Street names shall be sufficiently different in sound and in spelling from other street names in the village so as not to cause confusion. A street which exists or is planned as a continuation of an existing street shall bear the same name.

g. *Street signs.* The applicant shall deposit with the village, at the time of final subdivision approval, an amount equal to the cost of each street sign required by the Public Works Department at all road intersections. The village shall install all street signs before issuance of an occupancy permit for any residence on the streets approved. Street name signs are to be placed at all intersections within or abutting the subdivision. The type and location of signs are to be approved by the Public Works Department.

h. *Streetlights.* Installation of streetlights shall be required in accordance with design and specification standards approved by the Public Works Department.

i. *Continuation of streets between adjacent properties; dead-end streets.*

1. *Continuation of streets; temporary dead-end streets.* The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection or efficient provision of utilities, and where such continuation is in accordance with the village comprehensive plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary T- or L-shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The council may limit the length of temporary dead-end streets in accordance with the design standards

of this article.

2. *Permanent dead-end streets.* Where a street does not extend to the boundary of the subdivision and its continuation is not required by the council for access to adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the council may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac shall be provided at the end of a permanent dead-end street in accordance with construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of this article.

(2) *Design standards.*

- a. *Dimensions.* In order to provide for streets of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, fire protection, sanitation and street maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, Table 1 sets forth design standards for streets.

TABLE 1. DESIGN STANDARDS FOR STREETS

Improvement		Dimensions
Minimum width of right-of-way:		
	Local	50
	Collector	60
	Minor arterial	80'
	Principal	100'
Minimum pavement width (defined as face of curb to face of curb):		
	Local	30'
	Collector	40'
	Minor arterial	68'
	Principal	68'
Minimum radius of curve:		
	Local	273'
	Collector	273'
	Minor arterial	508'
	Principal	833'
Minimum centerline degree of circular curve:		
	Local	21.0°
	Collector	21.0°
	Minor arterial	11.3°
	Principal	6.9°
Minimum length of tangents between reverse curves:		
	Local	150'

Improvement		Dimensions
	Collector	150'
	Minor arterial	250'
	Principal	350'
Minimum sight distance:		
	Local	200'
	Collector	240'
	Minor arterial	275'
	Principal	300'
Minimum turnaround (local streets only):		
	Right-of-way diameter	100'
	Pavement	80'
Maximum length of cul-de-sac:		
	Permanent	600'
	Temporary	100'

- b. *Street surfacing and improvements.* After sewer and water utilities have been installed by the developer, the applicant shall construct curbs and gutters and shall surface or cause to be surfaced roadways to the widths prescribed in this article. The surfacing shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the Public Works Department. Adequate provision shall be made for culverts, drains and bridges.
- c. *Railroads and limited access highways.* (At this point in time there are no railroads in the village, but there have been numerous discussions on the possibility of a recreational railroad.) Railroad rights-of-way and limited access highways, where so located as to affect the subdivision of adjoining lands, shall be treated as follows:
1. In residential districts, a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat as follows: "This strip is reserved for screening. The placement of structures, except for street signs and lighting, hereon, is prohibited."
 2. In districts zoned for business, commercial or industrial uses, the nearest street extending parallel or approximately parallel to the railroad shall, wherever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.
 3. Streets parallel to the railroad, when intersecting a street which crosses the railroad at grade, shall, to the extent practicable, be a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.
- d. *Intersections.*

1. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any one point unless specifically approved by the planning commission.
 2. A proposed new intersection along one side of an existing street shall, wherever practicable, coincide with any existing intersection on the opposite side of such street. Street jogs with centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersections of major streets shall be at least 800 feet apart.
 3. The minimum curb radius at the intersection of two local streets shall be 20 feet, and the minimum curb radius at an intersection involving a collector street shall be 25 feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.
 4. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.
 5. The cross-slopes on all streets, including intersections, shall be three percent or less.
- e. *Bridges.* Bridges of primary benefit to the applicant, as determined by the council, shall be constructed at the full expense of the applicant without reimbursement from the village. The sharing of expenses for the construction of bridges not of primary benefit to the applicant as determined by the council will be fixed by special agreement between the council and the applicant. The cost shall be charged to the applicant pro rata as the percentage of his land develops and is so served.

(3) *Street dedications and reservations.*

- a. *New perimeter streets.* Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half streets. Where an existing half street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The council may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.
- b. *Widening and realignment of existing streets.* Where a subdivision borders an existing narrow street or when the comprehensive plan or zoning regulations indicate plans for realignment or widening a street that would require the use of some of the land in the subdivision, the applicant shall be required to improve and dedicate, at his expense, such areas for widening or realignment of such streets. Such streets shall be improved and dedicated by the applicant, at his own expense, to the full width as required by this article. Land reserved for any road purposes may not be counted in satisfying yard requirements of the zoning code (article II of this chapter), whether the land is to be dedicated to the village

in fee simple or as an easement.

(4) Other considerations

- a. Road design shall consider the standards contained in the following adopted Village of Ruidoso documents. These documents may be obtained from the Public Works Department.
 - a. Resolution 2011-28 A Resolution Adopting the Village of Ruidoso Standard Drawings for Public Works Construction
 - b. Ruidoso New Mexico Roadway Design Guide, November 2019

(d) *Drainage and storm sewers.*

- (1) *General requirements.* The planning commission shall not recommend for approval any plat of a subdivision which does not make adequate provision for stormwater or floodwater runoff channels or basins. The stormwater drainage system shall be separate and independent of any sanitary sewer system. Storm drainage shall be accommodated in the streets and gutters unless otherwise indicated by the Public Works Department. Where storm sewers are required, the cost shall be borne by the developer for storm sewers to a size of eight inches. If over eight inches in size and determined to be for benefit outside of the subdivision, the costs may be shared, as determined by the council.
- a. *Accommodation of upstream drainage areas.* A culvert, gutter or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Public Works Department shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications, assuming conditions of maximum potential watershed development permitted by the zoning code (article II of this chapter).
- b. *Effect on downstream drainage areas.* The Public Works Department shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Local government drainage studies, together with such other studies as shall be appropriate, shall serve as a guide to needed improvement. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the council may withhold approval of the subdivision until provision has been made for the improvement of the potential condition in such sum as the council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.
- c. *Areas of poor drainage.* Whenever a plat is submitted for an area which is subject to flooding, the council may approve such subdivision provided that the applicant fills the affected area of the subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of 12 inches above the elevation of the maximum probable flood, as determined by the Public Works Department. The plat of such subdivision shall provide for an overflow zone along the bank of any stream or watercourse, of a width which shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone, nor shall any structure be erected or placed therein. The boundaries of the overflow zone shall be subject to approval by the Public Works Department.
- d. *Floodplain areas.* The council may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the 100-year floodplain of any stream. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading

or dumping of earth, waste material or stumps, except at the discretion of the council.

(2) *Drainage easements.*

- a. *Required.* Where a subdivision is traversed by a watercourse, drainageway, channel or stream, a stormwater easement or drainage right-of-way shall be provided conforming substantially to the lines of such watercourse, and of such width and construction, or both, as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.
- b. *Extent; dedication; preservation of drainageways.*
 1. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements of at least 15 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
 2. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.
 3. The applicant shall dedicate, either in fee simple or by drainage or conservation easement, land on both sides of existing watercourses, to a distance to be determined by the council.
 4. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainageways. Such land subject to periodic flooding shall not be computed in determining the numbers of lots to be utilized for average density procedures, or for computing the area requirement of any lot.

(e) *Water facilities.*

(1) *General requirements.*

- a. When necessary, action shall be taken by the applicant to extend or create a water supply district for the purpose of providing a water supply system capable of providing domestic water use and fire protection.
- b. Where a public water main is accessible, the subdivider shall install adequate water facilities, including fire hydrants, subject to the specifications of the Public Works Department. All water mains shall be at least six inches in diameter.
- c. Water main extensions shall be approved by the Public Works Department.
- d. To facilitate these requirements, the location of all fire hydrants, all water supply improvements, and the boundary lines of proposed districts, indicating all improvements proposed to be served, shall be shown on the preliminary plat, and the cost of installing such improvements shall be included in the performance bond to be furnished by the developer.

- (2) *Fire hydrants.* Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located no more than 400 feet apart and shall be located at every intersection and shall be approved by the village fire chief. To eliminate future street openings, all underground utilities for fire hydrants, together with the

fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on the subdivision plat.

- (3) *Community or individual water systems; water availability plan.* Where a public water system is not available, and the planning commission determines that the public system cannot be reasonably extended, a water availability plan shall be submitted for approval by the planning commission as provided in this subsection. Water quality and the water system location shall be approved by the environmental improvement division of the state.
- a. *Compliance with New Mexico Water Law.* Under NMSA 1978, § 72-12-1, it is the state engineer's policy to grant a domestic permit only to the person who, in good faith, intends to use the water for household or other domestic purpose. The permit is limited to a diversion of three acre-feet per annum, which may be used to irrigate not more than one acre of noncommercial trees, lawn or garden, and for household or other domestic use. If more than one household use per well is proposed, then no more than one acre of noncommercial trees, lawn or garden may be irrigated from the well and the total withdrawal from the well shall be metered and limited to three acre-feet per year for all uses. If two or more wells obtained under provisions of NMSA 1978, § 72-12-1 are tied into the same distribution system, the total withdrawals shall be limited to three acre-feet per annum. If the total withdrawal is to exceed three acre-feet per annum from any well or group of wells that supply a common system, it will be necessary for the subdivider or users to obtain water rights.
- b. *Water availability plan; documentation of water availability.* Any person seeking approval of a subdivision plat must submit a water availability plan for either a community water system or individual wells.
1. The subdivider shall provide information showing the fire flow the proposed water supply system can deliver throughout the subdivision in gallons per minute and the time duration such flow can be maintained.
 2. The subdivider shall provide the following documentation, where applicable:
 - i. If the subdivider proposes that a utility certified by the state public service commission provide water, the subdivider shall provide documentation that the subdivision is located within the service area of the utility or that the utility is ready, willing and able to provide water to the subdivision.
 - ii. If the subdivider proposes that a municipality, private utility company or any other private party provide water, the subdivider shall provide documentation that the municipality, company or party is ready, willing and able to provide water to the subdivision. The documentation shall contain a statement from the municipality, company or party indicating the quantity of water available to the subdivider and any conditions or limitations pertaining to the use of water.
- c. *Standards for community water systems.*
1. The subdivider shall provide water from existing or proposed water supply systems for domestic use, fire protection and any other use that the subdivider proposes.
 2. The subdivider shall provide for the completion of the proposed water supply systems in accordance with applicable minimum design standards of the state environmental improvement division, and as approved by the village.

3. The provisions for fire flow shall be in accordance with the guidelines of the insurance services office and good engineering practice.
 4. The subdivider shall ensure the availability of sufficient potable water for the fully developed subdivision.
- d. *Submittal requirements for community water systems.* The following shall be prepared by or under the supervision of a registered professional engineer and shall be adequate for the purpose of subsection (e)(3)c of this section:
1. Plans and specifications for diversion, storage and distribution facilities, and a time schedule for their completion.
 2. Information showing the volume and peak rate of production of water required in each month to supply each use at full development of the subdivision.
 3. A geohydrologic report, if part or all of the supply is to be obtained from groundwater sources, containing the following information:
 - i. Geologic maps, cross sections and descriptions of the aquifer systems proposed for production, including information concerning the hydrogeologic boundaries, intake areas and locations of discharge of those aquifers.
 - ii. Maps and cross sections showing the depth to water, water level contours, direction of groundwater movement and the estimated thickness of saturation in the aquifers.
 - iii. Probable yields of the proposed wells, in gallons per minute and acre-feet per year, and probable length of time that the aquifer system will produce water at rates sufficient to meet the demands under full development of the subdivision. This information shall be based on pump test analysis, hydrogeologic boundaries, aquifer leakage and historic water level changes, logs and yields of existing wells and, when the planning commission deems necessary, test wells and aquifer performance tests. This information will give consideration to mutual interference of the proposed wells, and the interference of existing wells.
 - iv. A 40-year schedule of the effects of the projected water withdrawals for the subdivision on water levels and natural discharge.
 - v. A water quality analysis, which shall conform to state standards of the environmental improvement division.
 4. A hydrologic report, if part or all of the supply is to be obtained from surface water sources, containing the following information:
 - i. Source of water supply.
 - ii. Drainage area above the point of diversion.
 - iii. Analysis of relevant historical runoff records.
 - iv. Projected water supply available for the subdivision requirements.
- e. Individual water systems.
1. Domestic water supply may be provided by the subdivider or by the purchaser or lessee of each parcel at his own expense.

2. If the water supply is to be provided by the subdivider, the regulations of subsections (e)(3)b and d of this section shall apply.
 3. If the water supply is provided by the owner or lessee of each parcel, the regulations of subsections (e)(3)d.3 and 4 of this section shall apply.
- f. *Potable water supply required; approval by state.* Where a public water system is not available and the planning commission determines that the public water system cannot be reasonably extended to any lot, group of lots or subdivision, the subdivider or developer shall install a community or individual water supply system capable of providing safe potable water for domestic use. System design and water quality shall be approved by the environmental improvement division of the state.
- (f) *Sewage facilities.*
- (1) *Required.* The applicant shall install sanitary sewer facilities in a manner prescribed by the construction standards and specifications. All plans shall be designed in accordance with the rules, regulations and standards of the Public Works Department.
 - (2) *General standards.* Sanitary sewage facilities shall connect with the public sanitary sewage system unless such connection is not available. Sewers shall be installed to serve each lot and to grades and sizes required by approving officials and agencies. Sanitary sewage facilities, including the installation of laterals in the right-of-way, shall be subject to the specifications, rules, regulations and guidelines of the Public Works Department.
 - (3) *Private sewage systems.*
 - a. Where public sanitary sewage systems are not reasonably accessible, but will become available within a reasonable time, not to exceed 20 years, the village may allow one of the following alternatives:
 1. A central sewage system, with the maintenance cost to be assessed against each property benefited. Where plans for future public sanitary sewage systems exist, the applicant shall install the sewer lines, laterals and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains; or
 2. Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made. Sewer lines shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exists, and shall be ready for connection to such public sewer main.
 - b. Where sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of 20 years, the village may allow the installation of sewage systems as follows:
 1. Medium-density residential district: A central sewage system only shall be used. No individual disposal system will be permitted. Where plans exist for a public sewage system to be built, for a period in excess of 15 years, the applicant shall install all sewer lines, laterals and mains to be in permanent conformance with such plans and ready for

connection to such public sewer main.

2. Low-density residential district (less than one dwelling unit per acre): Individual disposal systems or central sewage systems shall be used.
- (4) *Connection to public system.* If a public sanitary sewer is accessible within 200 feet and a sanitary sewer is placed in a street or alley abutting upon property, the owner thereof shall be required to connect to the sewer for the purpose of disposing of waste, and it shall be unlawful for any such owner or occupant to maintain upon any such property an individual sewage disposal system.
 - (5) *Use of individual sewage disposal systems.* If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the zoning code (article II of this chapter) and percolation tests and test holes shall be made as directed by the New Mexico Environment Department (NMED) and the results submitted to the NMED. The individual disposal system, including the size of septic tanks and size of the tile fields or other secondary treatment devices, shall also be approved by the NMED.
 - (6) *Design criteria for sanitary sewers.*
 - a. *Deviations from standards.* These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances where considered justified by the Public Works Department.
 - b. *Design factors.* Sanitary sewage systems should be designed for the ultimate tributary population. Consideration should be given to current zoning regulations and approved planning and zoning reports where applicable. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewage and industrial waste, together with an adequate allowance for infiltration and other extraneous flow. The unit design flows presented in this subsection should be adequate in each case for the particular type of development indicated. Sewers shall be designed for the total tributary area using the following criteria:

		cfs/acre*
One- and two-family dwellings		0.02
Apartments, townhouses and condominiums:		
	One- and two-story	0.02
	Three- through six-story	0.03
Commercial: Small stores, offices and miscellaneous businesses		0.02
Shopping centers		0.02
High-rise and industrial buildings		As directed by the Public Works Department

*Cubic feet per second per acre.

These design factors shall apply to watersheds of 300 acres or less. Design factors for watersheds larger than 300 acres and smaller than 1,000 acres shall be computed on the basis of a linear decrease from the applicable design factor for an area of 300 acres to a design factor of 0.01 cfs/acre for an area of 1,000 acres, unless otherwise directed by the Public Works Department. Design factors for watersheds larger than 1,000 acres shall be 0.01 cfs/acre unless otherwise directed by the Public Works Department.

- c. *Maximum size.* The diameter of sewers proposed shall not exceed the diameter of the existing or proposed outlet, whichever is applicable, unless otherwise approved by the Public Works Department.
- d. *Minimum size.* No public sewer line shall be less than six inches in diameter.
- e. *Minimum slope.* All sewers shall be designed to give mean velocities, when flowing full, of not less than 2.7 feet per second. All velocity and flow calculations shall be based on the Manning Formula using an “N” value of 0.013. The design slopes shall be evenly divisible by four. The slopes shall be a minimum for the size indicated. Exceptions to these minimum slopes shall be made at the upper end of lateral sewers serving less than 30 houses. The sewers shall have a minimum slope of 0.76 percent. Where lateral sewers serve less than ten houses, the minimum slope shall be not less than one percent. The following table lists minimum slopes for various sewer sizes:

TABLE 2. MINIMUM SLOPES BY SEWER SIZE

Sewer Size (inches)	Minimum Slope (feet per 100 feet)
8	0.60
10	0.44
12	0.36
15	0.28
18	0.24
21	0.20
24	0.16

- f. *Alignment.* All sewers shall be laid with straight alignment between manholes, unless otherwise directed or approved by the Public Works Department.
- g. *Manhole location.* The difference in elevation between any incoming sewer and the manhole invert shall not exceed 12 inches, except where required to match crowns. The use of drop manholes will require approval by the Public Works Department. The minimum inside diameter of the manholes shall conform to those specified by the Public Works Department. Inside drop manholes will require special consideration; however, in no case shall the minimum clear distance be less than that indicated in this subsection. When a smaller sewer joins a larger one, the crown of the smaller sewer shall not be lower than that of the larger one. The minimum drop through manholes shall be 0.2 feet.

- h. *Sewer locations.* Sanitary sewers shall be located within streets or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be provided to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley rights-of-way where possible. Imposed loading shall be considered in all locations. Not less than six feet of cover shall be provided over the top of the pipe in street and alley rights-of-way, or three feet in all other areas.
 - i. *Cleanouts and lampholes.* Cleanouts and lampholes permitted by the village shall be required by the Public Works Department on all service laterals.
 - j. *Water supply interconnections.* There shall be no physical connection between a public or private potable water supply system and sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.
 - k. *Relationship of sewers to water mains.* A minimum horizontal distance of seven feet shall be maintained between parallel water and sewer lines. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe or encased in concrete or a metal sleeve for a distance of ten feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water main is at least two feet above the sewer line.
- (7) *Liquid waste management plan; community and individual liquid waste systems.* Where a public sewer system is not available, and the planning commission determines that the public system cannot be reasonably extended, a liquid waste management plan approved by the environmental division of the state health and environment department shall be submitted for approval of the planning commission.
- a. *Plan required.* Any person seeking approval of a subdivision plot must submit a liquid waste management plan to the planning commission for either a community or individual liquid waste (sewer) system.
 - b. *Standards for community systems.* Requirements for community liquid waste systems are as follows:
 - 1. Design and complete construction of the community system, by the time required in the approved plan, in compliance with all applicable water quality control regulations in effect at the time of final plat approval.
 - 2. Connection to the community system for the occupants within the subdivision in accordance with the requirements of the approved plan.
 - 3. Provisions for the operation, maintenance and expansion of the community system to meet the growth in population of the subdivision in a manner consistent with the approved plan and consistent with all applicable water quality control regulations in effect at the time of final plat approval.
 - c. *Required submittals for community systems.* Information requirements for community liquid waste systems are as follows:
 - 1. A legal description of the location of all construction, easements and rights-of-way necessary for the installation of the community liquid waste treatment system.
 - 2. Plans and specifications, prepared by a professional engineer registered in the state, for the construction of the system.

3. The time when the community system is to be completed.
 4. If the proposal is to connect to an existing community liquid waste system, plans and specifications for the liquid waste collection system within the subdivision and the connecting system, and a description of the existing system.
 5. The projected population of the subdivision, based upon four persons per household.
 6. A subdivision improvements agreement which guarantees:
 - i. The construction and operation of any liquid waste treatment system required as shown in the final plat documents and plans.
 - ii. Collateral in the form of a performance bond or other means to adequately ensure the complete construction and operation of the system in accordance with design and time specifications.
 - iii. Certification of the operator of the system.
 - iv. Involvement, as prescribed in the final plat documents, of a homeowners' association or community association.
- d. *Standards for individual systems.* Individual liquid waste disposal systems and privies may not be approved by the planning commission for use within a subdivision unless the following standards are met:
1. Such systems shall be located so as not to potentially contaminate or pollute any drinking water supply, watercourse or body of water.
 2. Such systems shall be located so as not to potentially degrade any recreational resources.
 3. Such systems shall not create a nuisance.
 4. Such systems shall not be located in areas where there is evidence that similar individual systems have caused significant groundwater contamination or high nutrient levels in any body of water.
 5. Such systems shall not be located in areas where there is evidence that they will cause hazards to health or to the environment.
 6. The distance between a well and a tank used as part of an individual liquid waste disposal system must be no less than 50 feet.
 7. The distance between a well and an absorption field that is part of an individual liquid waste disposal system must be not less than 100 feet.
 8. The distance between a well or body of water used as a public water supply and an absorption field or tank used as part of an individual liquid waste disposal system must be no less than 200 feet.
 9. The distance between an absorption field or tank used as a part of an individual liquid waste disposal system and the nearest boundary of a floodway must be no less than 100 feet.
 10. Privies may not be approved by the planning commission for use within a subdivision unless the subdivider demonstrates to the satisfaction of the planning commission, in consultation with the state environmental improvement division, that they will be located and operated in a manner which will not potentially contaminate any drinking water supply, potentially pollute any body of water, create a nuisance or cause a potential danger to public health.

- e. *Soil limitations for individual systems.* Individual liquid waste disposal systems may not be approved for use within a subdivision characterized by severe limitations under standards prescribed by the EID and CID of the state. In addition, individual liquid disposal systems shall not be approved for use within a subdivision where a percolation rate of less than six minutes per inch and a seasonal high water table of less than 20 feet exist together.
- f. *Minimum lot size for individual systems.* Individual liquid waste disposal systems may not be approved by the planning commission for use within a subdivision unless the parcels on which they will be used conform to the minimum lot sizes required by the EID and CID of the state.
- g. *Submittal requirements for individual systems.* Submittals for individual liquid waste disposal systems are as follows:
 - 1. A copy of the subdivider's disclosure statement relating to liquid waste disposal.
 - 2. The location of all proposed and existing wells, sewage absorption areas, community sewage systems and community water supply systems within the proposed subdivision and within 300 feet of the proposed subdivision boundary.
 - 3. The location of all arroyos, drainage areas and bodies of water within the proposed subdivision and within 300 feet of the proposed subdivision boundary.
 - 4. The soil depth throughout the area of the proposed subdivision.
 - 5. Soil classification or percolation tests, or both.
 - 6. The depth to the seasonal high water table.
 - 7. The slope of the ground within the proposed subdivision.
 - 8. The flood frequency of areas within the proposed subdivision.
 - 9. A detailed description of the kind of individual liquid waste disposal system that is to be used by the occupants of the subdivision.
 - 10. The projected population of the subdivision, based upon four persons per household.

(g) *Sidewalks and curbs.*

- (1) Sidewalks shall be included within the dedicated non-pavement right-of-way of all streets as illustrated in table 3.
- (2) Concrete curbs and gutters are required for all streets where sidewalks are required by this article or where required at the discretion of the planning commission and council.
- (3) Sidewalks shall be improved as required in subsection (c)(2)b of this section. A median strip of grass or landscaped areas at least two feet wide shall separate all sidewalks from adjacent curbs.

TABLE 3. SIDEWALK REQUIREMENTS

Type of Street	Sidewalk Requirement
Local	Optional (at council directive)*
Collector	Both sides, 4 feet wide
Arterial	Both sides, 5 feet wide

*But, where provided, four feet wide.

(h) *Underground installation of utilities; utility easements.*

- (1) *Underground installation.* All utility facilities, including but not limited to gas, electric power, telephone and cable television facilities, shall be located underground throughout the subdivision. Wherever existing utility facilities are located above ground, except where existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
- (2) *Easements.*
 - a. Easements centered on rear lot lines shall be provided, where necessary, for utilities (private and municipal). Such easements shall be at least ten feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.
 - b. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements of at least ten feet in width shall be provided along side lot lines, with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

(i) *Public land dedication, parks and open space.*

- (1) *Public uses shown on comprehensive plan.* Where a proposed park, playground, open space or other public use shown on the comprehensive plan is located in whole or in part in a subdivision, the planning commission and council shall require that such area be shown on plats in accordance with the requirements specified in this section. Such area shall be dedicated to the village by the subdivider if the council approves such dedication.
- (2) *Public uses not shown on comprehensive plan.* Where such other areas or sites of a character, extent and location suitable to the needs created by the type of development proposed for a subdivision are deemed essential by the planning commission for the orderly provision of areas or sites for public services or facilities and which development was not anticipated by the master plan, the planning commission shall require the subdivider to indicate such areas or sites on the subdivision plat, and, if deemed necessary by the planning commission and the council, such area shall be dedicated to the village by the subdivider.
- (3) *Dedication of recreation space required.* Before any subdivider shall receive final plat approval for a subdivision of land lying within the corporate limits of the village, or land which is to be annexed to the village prior to the approval of the final plat, the subdivider shall dedicate to the village an area of land to be used by the village for a neighborhood recreation space. The provisions of this subsection shall not apply to replats of land already subdivided.
- (4) *Calculation of required recreation space.* The amount of land to be dedicated shall be equal to the recreation space demand created by the subdivision and development of the land subdivided. The recreation space demand shall be computed on the projected requirement of 3.75 acres per 1,000 population generated. The number of persons the development of the subdivided land would generate as future residents of the area will be computed on the following formula:
 - a. For subdivision of land lying within an R-1 or R-2 residential zoning district or single-family lots platted in an R-2 residential zoning district, the population shall be computed as the

- number of single-family lots contained in the subdivision multiplied by 3.11 persons.
- b. If the subdivider of property within an R-3 residential zoning district has building plans ready to submit to the building official, showing the units to be built on the subdivided property or any portion thereof, the following formula shall be used to determine the population to be generated by this property: the number of family units contained multiplied by 2.60 persons.
 - c. If the subdivider of property within an R-4 multiple-family zoning district has building plans ready to submit to the building official, showing the units that will be built on the subdivided property or any portion thereof, the following formula shall be used to determine the population generated by this property:
 1. The number of studio units multiplied by 1.30 persons; plus
 2. The number of one-bedroom units multiplied by 1.73 persons; plus
 3. The number of two-bedroom units multiplied by 2.60 persons; plus
 4. The number of three- or more bedroom units multiplied by 3.46 persons; plus
 5. The number of townhouse units multiplied by 2.60 persons.
 - d. For subdivision of land lying within an M-1 low-density mobile home district, the population shall be computed as the number of lots in the mobile home subdivision multiplied by 3.11 persons.
 - e. For subdivision of land lying within an M-2 medium-density mobile home district, the population shall be computed as the number of lots in the mobile home subdivision multiplied by 2.60 persons.
 - f. If the subdivider of property within a multiple-family zoning district does not have plans ready to submit to the building official showing the units to be built on the subdivided property or any portion thereof, the following formula shall be used to determine the population to be generated by this property:
 1. If the property is in an R-2 residential district, the number of persons generated will be calculated by multiplying 3.11 persons times 6.20 units per acre, times the number of net acres in the subdivision for single-family development, and times 9.70 units per acre for duplexes. Net acreage shall include all acreage, including public easements not dedicated to the village, in fee simple.
 2. If the property is located in an R-3 residential district or R-4 multiple-family district, the number of persons generated by the development will be calculated by multiplying 2.60 persons times 16.0 units per acre, times the number of acres in the subdivision for R-3 development, and times 22.0 units per acre for R-4 development.
- (5) *Payment of recreation space demand fee in lieu of dedication of land.* In lieu of the land required to be dedicated by subsection (i)(3) of this section, the subdivider may choose to pay the village a recreation space demand fee. The amount of the fee shall equal the number of persons the future development of the subdivision will generate as calculated under subsection (i)(4) of this section, multiplied by the per-person fee based on per-acre value of land being subdivided within the village.
- (6) *Appraisal of value of land for purpose of recreation space demand fee.* For the purpose of computing the recreation space demand fee, the fair market value of the raw land lying within the subdivision shall be an amount determined in an appraisal obtained by the village from a qualified appraiser who is a resident of the county. If the developer does not feel the amount so determined fairly reflects the

market value of the raw land lying within the subdivision, the developer may obtain, at his own expense, an additional appraisal from a qualified professional appraiser approved by the village. The appraisal done by such approved appraiser shall be binding on the village.

- (7) *Payment of recreation space demand fee when proposed land is unsuitable.* If the council, prior to approving the final plat, finds that the land offered to be dedicated by the developer is inappropriate for use as recreation space because the land offered for dedication does not lie within the designated planned park sites for the area, or is not usable as a village park because of rough topography, susceptibility to flooding, inaccessibility or limited size, or does not meet other reasonable standards for land to be used as recreation space, the developer will be required to pay the fee in lieu of land as provided in subsection (i)(5) of this section.
- (8) *Deferral of dedication or fee payment.* Ordinarily, the recreation space demand fee shall be deposited with the village clerk prior to the approval of the final plat. However, if the council determines that immediate payment of the fee will work a hardship on the developer, or other circumstances so dictate, it may allow the developer to enter into an agreement with the village providing for future dedication of land or payment of the fee, provided that such agreement is accompanied by a good and sufficient surety bond in the amount of the required fee ensuring faithful performance of the agreement for future dedication or payment.
- (9) *Disposition and use of recreation space demand fees; refunds.* All fees collected pursuant to this subsection shall be deposited by the village in a fund known as the Village of Ruidoso Recreational Space Purchase and Improvement Fund. Monies deposited into the fund shall not be expended for any purpose other than to purchase and/or make improvements on land to be used as public recreational area located within one mile from an exterior boundary of the subdivision for which the fees were paid. If the village does not either purchase property or make improvements on property designated as public recreational area within one mile from the exterior boundary of the subdivision for which the fee was paid within a ten-year period from the date of such payment, the developer shall be refunded, at the expiration of the ten-year period, an amount equal to the fee, plus interest at the rate of six percent. Such refund, however, shall only be made after the developer, or his entire heirs or assigns, presents the village with a written request for such refund containing a statement as to the name of the subdivision for which the fee was paid, the date the fee was paid, and such other information as may be necessary to establish that a refund is due.
- (10) *Recovery of dedicated property by donor.* If land dedicated to the village for use as public recreation space is not improved or dedicated as natural open space and used as public recreation space within a period of ten years, the donor of the property or his successors in interest may institute an action to recover the property pursuant to NMSA 1978, § 70-1-45.
- (11) *Form of dedication.* The dedication of land required by this subsection shall be by warranty deed or dedication on a plat of the subdivision filed of record with the county clerk. All deeds and dedications purporting to dedicate land to the village pursuant to this subsection shall be approved by the village attorney.

This subsection shall not apply to subdivisions for which preliminary plat approval has been obtained prior to the effective date of the subdivision regulations in this article, adopted June 28, 1988, by Ordinance No. 88-6.

(Code 1985, § 10-10-5)

Sec. 54-286 COMPLETION OF IMPROVEMENTS.

(a) *Generally; performance bond; acceptance of dedication offers.*

(1) *Performance bond.*

- a. The council shall require that the applicant post a bond at the time of application for final subdivision approval in to secure to the village the satisfactory construction, installation and dedication of the required improvements. The performance bond shall also secure all lot improvements on the individual lots of the subdivision as required in this article. The amount of the bond shall be 125 percent of the cost of the installation and materials necessary to complete the subdivision.
- b. Such performance bond shall comply with all statutory requirements and shall be executed by a surety company holding a license to do business in the State of New Mexico, and acceptable to the Village of Ruidoso on a form approved by the village, in an amount of 125 percent of the cost of the improvements as certified by the council. The performance bond shall be satisfactory to the village attorney as to form, sufficiency and manner of execution, as set forth in this article. The period within which required improvements must be completed shall be specified by the council in the resolution approving the final subdivision plat and shall be incorporated in the bond, and shall not in any event exceed two years from the date of final approval.
- c. Such bond shall be approved by the council as to amount and surety and conditions satisfactory to the council. The planning commission may, upon proof of difficulty, recommend to the council extension of the completion date set forth in such bond for a maximum period of one additional year. The council may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the planning commission.

(2) *Alternative to performance bond.* As an alternative to requiring a contractor's performance bond, the council, at its discretion, may allow the procedures for completion of improvements described in section 54-283(d)(5).

- (3) *Temporary improvements.* The applicant shall build and pay for all costs of temporary improvements required by the council and shall maintain the temporary improvements for the period specified by the council. Prior to construction of any temporary facility or improvement, the developer shall file with the Public Works Department a separate performance bond for temporary facilities, which bond shall ensure that the temporary facilities will be properly constructed, maintained and removed.
- (4) *Payment of costs of improvements.* All required improvements shall be made by the applicant, at his expense, without reimbursement by the village or any improvement district therefor.
- (5) *Guarantees by governmental units.* Governmental units to which the bond and contract provisions of this section apply may file, in lieu of the contract or bond, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this section.
- (6) *Failure to complete improvements.* For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the council in the resolution approving the plat, the approval shall be deemed to have expired. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the village may thereupon declare the bond to be in default, call on the bond, and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.
- (7) *Acceptance of dedication offers.* Acceptance of formal offers of dedication of streets, public areas, easements and parks shall be by resolution of the council. The approval by the council of a subdivision

plat shall not be deemed to constitute or imply the acceptance or maintenance by the council of any street, easement or park shown on the plat. The council may require the plat to be endorsed with appropriate notes to this effect.

(b) *Inspection of improvements.*

- (1) *Required; fees; liability of applicant and bonding company.* The council shall provide for inspection of required improvements during construction and to ensure their satisfactory completion. The applicant shall pay to the village an inspection fee as set forth in Appendix A to this Code. The inspection fee shall be computed based on the amount of the performance bond or the estimated cost of required improvements, and the subdivision plat shall not be signed by the mayor unless such fee has been paid at the time of approval. If the Public Works Department finds upon inspection that any of the required improvements have not been constructed in accordance with the village's construction standards and specifications, the applicant shall be responsible for completing the improvements. Wherever the cost of improvements is covered by a performance bond, the applicant and the bonding company shall be severally and jointly liable for completing the improvements according to the specifications.

(2) *Release or reduction of performance bond; maintenance of improvements.*

- a. *Certificate of satisfactory completion.* The council will not accept dedication of required improvements, or release or reduce a performance bond, until the Public Works Department has submitted a certificate stating that all required improvements have been satisfactorily completed and until the applicant's engineer or surveyor has certified to the Public Works Department, through submission of a detailed as-built survey plat and construction plans of the subdivision, prepared on Mylar, indicating location, dimensions, materials and other information required by the council or Public Works Department, that the layout of the line and grade of all public improvements is in accordance with the construction plans for the subdivision and that a title insurance policy has been furnished to and approved by the village attorney indicating that the improvements have been completed, are ready for dedication to the village and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation, the council shall thereafter accept the improvements for dedication in accordance with the established procedure.
- b. *Reduction of performance bond.* A performance bond may be reduced upon actual dedication of public improvements, and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event shall a performance bond be reduced below 25 percent of the principal amount unless all improvements have been dedicated, in which case the bond may be reduced to zero, provided a maintenance bond is posted.
- c. *Maintenance of improvements; maintenance bond.*
 1. The applicant shall be required to maintain all improvements within the subdivision and/or on the individual subdivided lots for a period of one year following completion of the improvements or until acceptance of the improvements by the council. If there are any certificates of occupancy on a street where improvements have not been dedicated to the village, the village may, on 12 hours' notice, effect emergency repairs and charge the costs to the applicant.
 2. The applicant shall be required to file a maintenance bond with the council prior to dedication in the amount of ten percent of the improvement costs, in a form satisfactory to the village attorney, in order to guarantee that all workmanship and materials, including all lot improvements on the individual subdivided lots, shall be free

from defects for a period of one year after the date of their acceptance by the council and dedication of the improvements to the village.

(c) *Deferral or waiver of required improvements.*

- (1) The council may defer or waive, at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interest of the public health, safety and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.
- (2) Whenever it is deemed necessary by the council to defer the construction of any improvement required in this article because of incompatible grades, future planning, or inadequacy or lack of connecting facilities, or for other reasons, the applicant shall pay his share of the costs of the future improvements to the village prior to signing of the final subdivision plat, or the applicant may post a bond ensuring completion of the improvements upon demand by the council.

(d) *Issuance of building permits and certificates of occupancy.*

- (1) Where a performance bond has been required for a subdivision, no building permit for any building in the subdivision shall be issued prior to the completion of the improvements and dedication of the improvements to the village, as required in the council's final approval of the subdivision plat.
- (2) No certificate of occupancy for any building in the subdivision shall be issued prior to completion, inspection and approval by the Public Works Department and dedication to the village of all utilities required to serve the building for which a certificate of occupancy is requested.
- (3) The extent of street improvements shall be adequate for vehicular access by the prospective occupant and by police and fire protection equipment, prior to the issuance of an occupancy permit.
- (4) No building permit shall be issued for the final ten percent of lots in a subdivision (or, if ten percent is less than two, for the final two lots of a subdivision) until all public improvements required by the council for the plat have been fully completed and dedicated to the village.
- (5) For the purpose of allowing the early construction of model homes in a subdivision, the planning commission, at its discretion, may permit a portion of a major subdivision involving no more than four lots to be created in accordance with the procedures of section 54-283(e), provided such portion derives access from an existing village, township, county or state highway, and provided no future road or other improvement is anticipated where the lots are proposed. The subdivision plat for the "minor" portion shall be submitted to the planning commission simultaneously with the preliminary plat for the entire major subdivision. Subsequent to preliminary plat approval, the model may be constructed, subject to such additional requirements that the planning commission may require.

(Code 1985, § 10-10-6; Ord. No. 2007-09, 9-11-07)

Sec. 54-287 FEES.

Fees for permits, inspections and administrative functions associated with the community development department shall be set or revised from time to time by the planning official with the concurrence of the village manager. The fees are to be reviewed and recommended by the planning and zoning commission to the governing body for approval by resolution.

(Code 1985, § 10-10-7; Ord. No. 2019-02 , 3-12-19)

Sec. 54-288 CERTAIN DESIGN AND CONSTRUCTION STANDARDS SAVED FROM REPEAL.

Design and construction standards for streets, storm drainage, water and sanitary sewers are not printed in this Code, but are saved from repeal and are on file and available in the offices of the planning administrator and the village clerk.

Sec. 54-289 —54-320. RESERVED.

ARTICLE IV. FLOOD HAZARD REGULATIONS

Sec. 54-321 STATUTORY AUTHORITY.

The legislature of the state has, in NMSA 1978, § 3-18-6, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.

(Code 1985, § 10-9-1)

Sec. 54-322 FINDINGS OF FACT.

- (a) The flood hazard areas of the village are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Code 1985, § 10-9-2)

Sec. 54-323 PURPOSE OF ARTICLE.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;

- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

(Code 1985, § 10-9-3)

Sec. 54-324 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or which cause excessive increases in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, streams, channels and natural protective barriers which are involved in the accommodation of floodwaters.
- (4) Control filling, grading, dredging and other development which may increase flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Code 1985, § 10-9-4)

Sec. 54-325 DEFINITIONS (FOR PURPOSES OF THE NATIONAL FLOOD INSURANCE PROGRAM).

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

Alluvial fan flooding means flooding occurring in the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows, active processes of erosion, sediment transport and deposition, and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appeal means a request for a review of the enforcement officer's interpretation of any provisions of this article, or a request for a variance.

Area of shallow flooding means a designated AO, AH or VO zone on a community's flood insurance rate map with a one-percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AO, AH, A1—30, AE, A99, AR, AR/A1—30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1—30, VE or V.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Base flood elevation means the computed elevation to which floodwater is anticipated to rise during the base flood. Base flood elevations (BFEs) are shown on flood insurance rate maps (FIRMs) and on the flood profiles.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed before the effective date of the floodplain management regulations adopted by a community.

Existing mobile home park or mobile home subdivision means a parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed, including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, is completed before the effective date of the ordinance from which this article is derived.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads.

Expansion to an existing mobile home park or mobile home subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed, including the installation of utilities, either final site grading or the pouring of concrete pads, or the construction of streets.

Flood and flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the areas within the boundaries of special flood hazard have been designated as zone A.

Flood insurance rate map (FIRM) means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study (FIS). See "Flood elevation study."

Floodplain and *floodprone area* mean any land area susceptible to being inundated by water from any source (see the definition of "flooding").

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodway and *regulatory floodway* mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include longterm storage or related manufacturing facilities.

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a habitable floor.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

Mobile home. See "Manufactured home."

New construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community, and includes any subsequent improvements to such structures.

New mobile home park or mobile home subdivision. See "New manufactured home park or subdivision."

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area. See "Area of special flood hazard."

Start of construction, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348), includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other

improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of the structure on a site, such as the pouring of slabs or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. Cost shall be determined according to the standards of subsection 22-34(b). This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety codes or specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum of 1929, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Code 1985, § 10-9-5; Ord. No. 2011-15, 10-11-11; Ord. No. 2014-09, 10-28-14)

Editor's note(s)—Ord. No. 2014-09 Editor's note(s)—, adopted Oct. 28, 2014, changed the title of § 54-325 Editor's note(s)— from "Definitions" to read as herein set out.

Cross reference(s)—Definitions generally, § 1-2 Cross reference(s)—.

Sec. 54-326 LANDS TO WHICH ARTICLE APPLIES.

This article shall apply to all areas of special flood hazard within the jurisdiction of the village.

(Code 1985, § 10-9-6)

Sec. 54-327 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Ruidoso," dated November 5, 2014, with accompanying flood insurance rate maps and flood hazard boundary-floodway maps, and any revisions thereto, are hereby adopted by reference and declared to be a part of this article.

(Code 1985, § 10-9-7; Ord. No. 2011-15, 10-11-11; Ord. No. 2014-09 , 10-28-14)

Sec. 54-328 DEVELOPMENT PERMIT REQUIRED.

A floodplain development permit shall be required to ensure conformance with the provisions of this article.

(Code 1985, § 10-9-8; Ord. No. 2014-09 , 10-28-14)

Sec. 54-329 COMPLIANCE WITH ARTICLE AND OTHER REGULATIONS.

No structure or land shall hereafter be located or altered or have its use changed without full compliance with the terms of this article and other applicable regulations.

(Code 1985, § 10-9-9)

Sec. 54-330 ABROGATION OF EXISTING RESTRICTIONS; CONFLICTING REGULATIONS.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1985, § 10-9-10)

Sec. 54-331 INTERPRETATION OF ARTICLE.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally constructed in favor of the council; and

- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1985, § 10-9-11)

Sec. 54-332 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur, and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the village or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 1985, § 10-9-12)

Sec. 54-333 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The planning administrator or his designee is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (the National Flood Insurance Program regulations) pertaining to floodplain management.

(Code 1985, § 10-9-13)

Sec. 54-334 DUTIES OF FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the floodplain administrator shall include but not be limited to the following:

- (1) The floodplain administrator shall maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) The floodplain administrator shall review permit applications to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) The floodplain administrator shall review, approve or deny all applications for development permits required by adoption of this article.
- (4) The floodplain administrator shall review applications for proposed development to ensure that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required (including those required by section 404 of the federal Water Pollution Control Act Amendments of 1972, 33 USC 1334).
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- (6) The floodplain administrator shall notify, in riverine situations, adjacent communities and the state coordinating agency, which is the emergency management bureau, prior to any alteration or relocation

of a watercourse, and submit evidence of such notification to the New Mexico Department of Homeland Security and Emergency Management (NMDHSEM).

- (7) The floodplain administrator shall ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with section 54-327, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of this article.
- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements or other development, including fill, shall be permitted within zones A1—30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1—30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by Section 65.12.

(Code 1985, § 10-9-14; Ord. No. 2014-09 , 10-28-14)

Sec. 54-335 ISSUANCE OF DEVELOPMENT PERMIT.

- (a) *Application.* Application for a development permit shall be presented to the enforcement officer on forms furnished by him, and may include but shall not be limited to plans in duplicate drawn to scale showing the locations, dimensions and elevation of proposed landscape alterations and existing and proposed structures, and their location in relation to areas of special flood hazard. Additionally, the following information is required:
 - (1) Elevation, in relation to mean sea level, of the lowest floor, including basement, of all new and substantially improved structures.
 - (2) Elevation, in relation to mean sea level, to which any nonresidential structure shall be floodproofed.
 - (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 54-337.
 - (4) A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - (5) Maintain a record of all such information in accordance with, subsection 54-334(1).
- (b) *Criteria for approval.* Approval or denial of a development permit by the enforcement officer shall be based on all of the provisions of this article and the following relevant factors:
 - (1) The danger to life and property due to flooding or erosion damage.
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (3) The danger that materials may be swept onto other lands to the injury of others.

- (4) The compatibility of the proposed use with existing and anticipated development.
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities such as sewer, gas, electric and water systems.
- (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (8) The necessity to the facility of a waterfront location, where applicable.
- (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (10) The relationship of the proposed use to the comprehensive plan for that area.

(Code 1985, § 10-9-15; Ord. No. 2014-09 , 10-28-14)

Sec. 54-336 VARIANCES.

- (a) The enforcement officer shall hear and render judgment on requests for variances from the requirements of this article.
- (b) The planning commission shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the enforcement officer in the enforcement or administration of this article.
- (c) Any person aggrieved by the decision of the planning commission may appeal such decisions to the council as provided in section 54-62, and then to the courts of competent jurisdiction.
- (d) The floodplain administrator shall maintain a record of all actions involving an appeal, and shall report variances to the Federal Emergency Management Agency upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places without regard to the procedures set forth in the remainder of this article.
- (f) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 54-335(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted in this section and the intent of this article, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Prerequisites for granting variances are as follows:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (2) Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 - (j) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (1) The criteria outlined in this article are met.
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
 - (k) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- (Code 1985, § 10-9-16)

Sec. 54-337 GENERAL STANDARDS.

In all areas of special flood hazard, the following provisions are required:

- (1) All new construction and substantial improvements shall be designed, or modified, and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters; and
- (6) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

- (7) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(Code 1985, § 10-9-17; Ord. No. 2014-09 , 10-28-14)

Sec. 54-338 SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in section 54-327, 54-334(8) or 54-337, the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the enforcement officer that the standard of this subsection, as proposed in section 54-335, is satisfied.
- (2) *Nonresidential construction.* New construction or substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood level, or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that such design, specifications and plans are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.
- (3) *Enclosures.* New construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) a. Manufactured homes that are placed or substantially improved within zones A1—30, AH and AE on the community's FIRM on sites:
 1. Outside of a manufactured home park or subdivision;
 2. In a new manufactured home park or subdivision;
 3. In an expansion to an existing manufactured home park or subdivision; or
 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

Require that all manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

- (5) *Recreational vehicles.* Recreational vehicles placed on sites within zones A1—30, AH and AE on the community's FIRM shall either:
- Be on the site for fewer than 180 consecutive days;
 - Be fully licensed and ready for highway use; or
 - Meet the permit requirements of this article and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

- (6) *Evacuation plan.* A plan for evacuating residents of all manufactured home parks or subdivisions located within floodprone areas shall be developed and filed with and approved by the enforcement officer.

(Code 1985, § 10-9-18; Ord. No. 2014-09 , 10-28-14)

Sec. 54-339 STANDARDS FOR AREAS OF SHALLOW FLOODING.

Located within the areas of special flood hazard established in section 54-327 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions shall apply:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM, or at least two feet if no depth number is specified.
- (2) All new construction and substantial improvements of nonresidential structures shall:
 - Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM, or at least two feet if no depth number is specified; or
 - Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the enforcement officer that the standards of this section, as proposed in section 54-335(b), are satisfied.



- (4) Within zones AH and AO, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(Code 1985, § 10-9-19; Ord. No. 2014-09 , 10-28-14)

Sec. 54-340 STANDARDS FOR SUBDIVISION PROPOSALS.

- (a) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with sections 54-321 through 54-323.
- (b) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet the development permit requirements of sections 54-335 and 54-337, and other provisions of this article.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided.
- (d) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed so as to minimize or eliminate flood damage.

(Code 1985, § 10-9-20)

Sec. 54-341 COMPUTER PROGRAMS FOR IDENTIFICATION AND MAPPING OF SPECIAL FLOOD HAZARD AREAS.

Any computer program used to perform hydrologic or hydraulic analyses in support of a flood insurance map revision must meet all of the following criteria:

- (1) It must have been reviewed and accepted by a governmental agency responsible for the implementation of programs for flood control and/or the regulation of floodplain lands. For computer programs adopted by non-federal agencies, certification by a responsible agency official must be provided which states that the program has been reviewed, tested and accepted by that agency for purposes of design of flood control structures or floodplain land use regulation.
- (2) It must be well documented, including source codes and user's manuals.
- (3) It must be available to the Federal Emergency Management Agency and all present and future parties impacted by flood insurance mapping developed or amended through the use of the program. For programs not generally available from a federal agency, the source code and user's manuals must be sent to the Federal Emergency Management Agency free of charge, with fully documented permission from the owner that the Federal Emergency Management Agency may release the code and user's manuals to such impacted parties.

(Code 1985, § 10-9-21)

Sec. 54-342 FLOODWAYS.

Located within areas of special flood hazard established in section 54-327 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- a. Encroachments are prohibited, including fill, new construction, substantial improvements and other development, unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b. If the requirements of this article are satisfied, all new construction and substantial improvements shall comply within all applicable flood hazard reduction provisions of section 54-337

(Ord. No. 2014-09 , 10-28-14)

Sec. 54-343 SEVERABILITY.

If any section, clause, sentence, or phrase of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this article.

(Ord. No. 2014-09 , 10-28-14)

Sec. 54-344 PENALTIES FOR NONCOMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Village of Ruidoso from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2014-09 , 10-28-14)

Sec. 54-345 SECS. 54-345—54-370. RESERVED.

ARTICLE V. AIRPORT HAZARD REGULATIONS¹¹

Sec. 54-371 SCOPE OF ARTICLE; STATUTORY AUTHORITY.

¹¹Cross reference(s)—Aviation, ch. 18 Cross reference(s)—.

This article is applicable to the area enclosed within a 10,000-foot radius from the center of each end of the primary surface of each runway of the airport and by connecting the adjacent arcs by lines tangent to those arcs, and all the area within the runway 6/24 approach zone for a distance of 50,000 feet from the center of each end of the primary surface for each end of runway 6/24, all as shown on the airport hazard zoning map attached to the ordinance from which this article is derived, at the Sierra Blanca Regional Airport. This article divides such area into zones and, within such zones, specifies the land uses permitted, regulates and restricts the height to which structures and trees may be erected or allowed to grow, and imposes other restrictions and requirements necessary to effectuate the approach plan for the airport, the airport approach plan having been heretofore formulated and adopted by the board of county commissioners. The authority for the airport approach plan and for this article is NMSA 1978, §§ 3-39-16—3-39-26, and Federal Aviation Administration Regulations, Part 77, Objects Affecting Navigable Airspace.

(Code 1985, § 11-8-1)

Sec. 54-372 DEFINITIONS.

- (a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airport means the Sierra Blanca Regional Airport, Ruidoso, New Mexico.

Airport elevation means the established elevation of the highest point on the usable landing area, which is 6,810.5 feet MSL.

Airport reference point means the point established as the approximate geographic center of the airport landing area, and is established at a location described as follows: longitude 105°31'31" west, latitude 33°27'42" north.

Height. For the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level unless otherwise specified.

Landing area means the area of the airport used for the landing or takeoff of the aircraft.

Nonconforming use means any structure, tree or use of land which is lawfully in existence at the time this article becomes effective and does not then meet the requirements of this article.

Primary surface means a surface longitudinally centered on a runway and which extends 200 feet beyond each end of that runway, provided the surface is hard; otherwise, the primary surface ends at each end of that runway. The primary surface is established as 200 feet beyond each end of the runways and has a width of 1,000 feet for instrument runways and 250 feet for visual runways.

Runway means a defined area on the airport prepared for landing and takeoff of aircraft along its length.

- (b) Other definitions are as set out in NMSA 1978, § 3-29-17, and in Federal Aviation Administration Regulations, Part 77, Objects Affecting Navigable Airspace.

(Code 1985, § 11-8-2)

Cross reference(s)—Definitions generally, § 1-2Cross reference(s)—.

Sec. 54-373 ZONES.

In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land lying within the approach zones, transition zones, horizontal zone and conical zone. Such areas and zones are shown on the Sierra Blanca Regional Airport Hazard Zoning Map, consisting of one sheet, and bearing the date of adoption of the ordinance from which this article is derived, a copy of which is attached to such ordinance and made a part of this article by reference. The various zones are hereby established and defined as follows:

- (1) *Approach zones.* An approach zone is established at each end of all runways on the airport for landings and takeoffs. The approach zone shall be longitudinally centered on the extended runway centerline and extends outward and upward from each end of the primary surface and has a width of 1,000 feet for instrument runway 6/24 and 250 feet for visual runway 12/30 at a distance of 200 feet beyond each end of each runway, widening thereafter uniformly for each runway as follows:
 - a. For runway 6/24, to a width of 4,000 feet at a slope of 50 feet horizontally to one foot vertically for the first 10,000 feet, and to a width of 16,000 feet at a slope of 40 feet horizontally to one foot vertically for the next 40,000 feet.
 - b. For runway 12/30, to a width of 450 feet at a slope of 20 feet horizontally to one foot vertically at a distance of 1,000 feet from the end of the primary surface.
- (2) *Transition zones.* Transition zones are hereby established adjacent to each runway and approach zone as indicated on the zoning map. Transition zones extend outward and upward at right angles to the runway centerline at a slope of seven feet horizontally to one foot vertically from the sides of the primary surface and from the sides of the approach surfaces to the point where they intersect the surface of the horizontal zones or the conical zone.
- (3) *Horizontal zones.* A horizontal zone is hereby established as the area the perimeter of which is constructed by swinging arcs of a radius of 10,000 feet from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The horizontal zone does not include the approach zones, conical zones and transition zones.
- (4) *Conical zones.* A conical zone is hereby established as the area that commences at the periphery of the horizontal zones and extends outward therefrom at a slope of 20 feet horizontally to one foot vertically for a horizontal distance of 4,000 feet. The conical zone does not include the approach zones and transition zones.

(Code 1985, § 11-8-3)

Sec. 54-374 HEIGHT LIMITATIONS.

Except as otherwise provided in this article, no structure or tree shall be erected, altered, allowed to grow or maintained in any zone created by this article to a height in excess of the height limit established in this article for each zone. Such height limitations are hereby established for each of the zones in question as follows:

- (1) *Approach zones.*
 - a. For runway 6/24: Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline, thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
 - b. For runway 12/30: Slopes 20 feet outward for each foot upward beginning at the end of and

at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

- (2) *Transitional zones.* Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation, which is 6,810.5 feet above mean sea level. In addition, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.
- (3) *Horizontal zones.* One hundred fifty feet above the airport elevation or a height of 6,960.5 feet above mean sea level.
- (4) *Conical zone.* One foot in height for each 20 feet of horizontal distance beginning at the periphery of the horizontal zones, extending to a height of 350 feet above the airport elevation.
- (5) *Overlapping zones.* Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail. Nothing in this article shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the surface of the land within a three-mile radius of the airport reference point.

(Code 1985, § 11-8-4)

Sec. 54-375 USE RESTRICTIONS.

Notwithstanding any other provisions of this article, no use may be made of land within any zone established by this article in such manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and other lights, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off, or maneuvering of aircraft.

(Code 1985, § 11-8-5)

Sec. 54-376 NONCONFORMING USES.

- (a) *Regulations not retroactive.* This article shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to this article as of the effective date of the ordinance from which this article is derived, or otherwise interfere with the continuance of any nonconforming use. Nothing contained in this article shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance from which this article is derived and is diligently prosecuted.
- (b) *Marking and lighting.* Notwithstanding subsection (a) of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the village council to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed,

operated and maintained at the expense of the village and shall conform to the current Federal Aviation Administration Advisory Circular 70/7460-1.

- (c) *Incompatible uses.* No use shall be allowed within any zone established by this article which is in conflict with Federal Aviation Administration Order 5200.5 relating to safe flight operations.

(Code 1985, § 11-8-6)

Sec. 54-377 PERMITS AND VARIANCES.

- (a) *Permit for new uses and structures.* Except as specifically provided in subsections (1), (2) and (3) of this subsection, no material change shall be made in the use of the land and no structure or tree shall be erected, altered, planted or otherwise established in any zone created by this article unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to this article.
- (1) In the area lying within the limits of the horizontal zone or the conical zone but not within the limits of an approach zone or transition zone, no permit shall be required for any tree or structure less than 50 feet in vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone.
 - (2) In the area lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 50 feet in vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such instrument or non-instrument approach zone.
 - (3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit shall be required for any tree or structure less than 75 feet in vertical height above the ground, except when such tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the exceptions in subsections (1), (2) and (3) of this section shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this article, except as set forth in section 54-374.

- (b) *Existing uses.* No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of the ordinance from which this article is derived or the effective date of any amendments to this article, or than it is when the application for a permit is made.
- (c) *Abandoned or destroyed nonconforming uses.* Whenever the village council determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from this article.
- (d) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with this article, may apply to the planning commission for a variance from this article. Such variances may be allowed where it is duly found that a literal application or enforcement of this article would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this article.

- (e) *Hazard marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or trees in question to permit the village, at its own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

(Code 1985, § 11-8-7)

Sec. 54-378 ADMINISTRATION.



It shall be the duty of the planning commission to administer and enforce this article. Applications for permits and variances shall be made to the planning commission upon forms furnished by it. The airport manager shall review all applications for permits and variances and shall report his findings and recommendations to the planning commission regarding compliance with this article and the airport master plan. Applications required by this article to be submitted to the planning commission and reviewed by the airport manager shall be promptly considered and granted or denied by the planning commission.

(Code 1985, § 11-8-8)

Sec. 54-379 APPEALS.

Appeals shall be to the village council according to the provisions of NMSA 1978, § 3-39-22.

(Code 1985, § 11-8-9)

Sec. 54-380 JUDICIAL REVIEW.

Judicial review may be had as provided in NMSA 1978, § 3-39-23.

(Code 1985, § 11-8-10)



Sec. 54-381 ENFORCEMENT AND REMEDIES.

Violations, penalties and additional relief are as provided in NMSA 1978, § 3-39-24.

(Code 1985, § 11-8-11)

Sec. 54-382 CONFLICTING REGULATIONS.

Where there exists a conflict between any of the regulations or limitations prescribed in this article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of the land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Sec. 54-383 —54-399. RESERVED.

ARTICLE VI. WILDFIRE HAZARD OVERLAY DISTRICT

Sec. 54-400 INTENT AND PURPOSE OF DISTRICT.

- (a) This wildfire hazard overlay district (the "district") is intended to promote the public health, safety and general welfare of the citizens of the village, to minimize the risk of loss of life and property in the district, to encourage and regulate prudent land use in the district so as not to increase the danger to the public health, safety and property, to reduce the demands for public expenditures for relief and protection of structures and facilities permitted in the district, to regulate buildings and structures so as to minimize the hazard to public health, safety and welfare and to public and private property, and to facilitate an added value concept to enhance aesthetics and property values.
- (b) Specific purposes are:
 - (1) To develop and maintain a map or otherwise to identify areas within the village's jurisdiction that allow for preliminary identification of wildfire hazard areas.
 - (2) To identify the process for assessing the wildfire hazard concurrent with the land planning process.
 - (3) To identify specific types of development to be subject to wildfire mitigation measures and the provisions of the Urban/Wildland Interface Code ("U/WIC"), as amended and adopted by the village.
 - (4) To reference the standards with which development proposed in wildfire hazard areas must comply.
 - (5) To set forth the procedures for addressing wildfire risk during the land development process.

(Ord. No. 2002-05, 6-25-02)

Sec. 54-401 APPLICABILITY.

- (a) The regulations contained in this article shall apply to all land areas identified as being within the district.
- (b) Any area assigned a hazard rating of 60 for constructed sites or 45 for unimproved land or higher by the U/WIC, or such other rating as the U/WIC may provide from time to time, shall be subject to the provisions of this article.
- (c) Land use activities subject to this article are:
 - (1) All building permits;
 - (2) Site plans;
 - (3) Subdivisions;
 - (4) All special use permits, including conditional uses and variances.

- (d) The provisions of this article shall apply in addition to the applicable requirements of the underlying zoning district. Where any such provisions are inconsistent, the provisions of this article shall govern.

(Ord. No. 2002-05, 6-25-02)

Sec. 54-402 DUTIES OF DIRECTOR.

- (a) The planning administrator and the director of forestry of the village shall have concurrent responsibility for administration of this article.
- (b) Use of the title "director" refers to the planning administrator or the director of forestry or their duly authorized representative.

(Ord. No. 2002-05, 6-25-02; Ord. No. 2004-03, 5-11-04)

Sec. 54-403 IDENTIFICATION OF DISTRICT.

- (a) The district shall be deemed an overlay on property in any zoning district that comes within the provisions of this article.
- (b) The village may create a map to identify properties within the district, or it may identify said properties on the basis of the hazard rating system of the U/WIC, or by such other method as will serve the purposes listed above and sufficiently identify the property. Any property identified as being within the district shall lawfully be designated as such, regardless of whether or not it is identified on any map.
- (c) Land proposed for development shall be subject to on-site inspection by the director for the purpose of determining a wildfire hazard rating.
- (d) Any person contesting the location of property within the district or the severity of conditions at a specific location within the district may challenge the determination of the director by submission of forestry, topographic and other data to support such contest. The director shall not allow deviations from the district designation or from the mitigation requirements of this article unless the data submitted clearly and conclusively establishes that the designated location is incorrect or that the hazard conditions as determined by the director are in error. The director shall be required to enter findings that any deviations approved as a result of this subsection do not present a significant hazard to public health, safety or welfare, or to property at the specific contested location. Any adverse finding under this subsection shall be subject to appeal as otherwise provided in this Code.

(Ord. No. 2002-05, 6-25-02; Ord. No. 2004-03, 5-11-04)

Sec. 54-404 DEVELOPMENT STANDARDS.

- (a) *General requirements.* Development determined to be subject to the provisions of the district shall be required to mitigate identified hazards through compliance with these regulations. Additional measures aimed at reducing the risk of wildfire may be imposed at the discretion of the director, subject to contest as specified in section 54-402 herein.
 - (b) *Specific requirements.*
-

(1) *Fuel modification.*

- a. Minimum fuel modification measures required are set forth in the Fuels Management Standards, section 42-80. Identification of fuel modification measures in addition to the minimum requirements set forth in section 42-80 may be required where slopes exceed 40 percent or [where] other extreme conditions promoting severe fire behavior exist. Additional fuel modification shall be determined and approved by the director of forestry and the fire chief. Identification of fuel type, volume and loading, in conjunction with an assessment of slope and aspect, to determine the ability for a wildfire to spread.
- b. Reduction of fuel loading and modification of fuel types to reduce the risk to structures or adjacent vegetation, including the creation of fuel breaks.
- c. Creation of defensible space to protect structures from approaching wildfire and reduce the potential for turning a structure fire into a wildfire.

(2) *Defensible space standards.*

- a. The standards and criteria governing the design of defensible space and associated fuel break thinning shall be those specified in the U/WIC and section 42-80 as adopted by the village.
- b. Roadway standards shall be those specified in the U/WIC as adopted by the village.
- c. A site development plan or building permit meeting the criteria set forth in section 54-404(b)(3)b. shall be deemed to be in compliance with the defensible space requirement when a written certificate of compliance is issued by the director of forestry. The cost of inspection, reinspection and certification shall be borne by the applicant according to the fee schedule as set forth in appendix A to this Code.
- d. A denial of a certificate of compliance may be appealed to the planning commission, the governing body and district court as provided in this Code.

(3) *Building permits.*

- a. All buildings and structures allowed to be located in a wildfire hazard area shall be required to comply with the design standards specified in the U/WIC.
- b. No building permit shall be issued for new construction, the replacement of existing structures, or for additional habitable space of 400 square feet or more until a lot assessment has been completed.
- c. No certificate of occupancy for any construction meeting the criteria contained in subsection b. above shall be issued until a certificate of compliance has been issued.

(Ord. No. 2002-05, 6-25-02; Ord. No. 2004-03, 5-11-04; Ord. No. 2007-04, 4-24-07; Ord. No. 2007-09, 9-11-07; Ord. No. 2012-07, 6-26-12)

Sec. 54-405 APPLICATION PROCEDURE.

- (a) Prior to the processing of any application for a land use activity within the district, a wildfire hazard rating shall be obtained by completion of the Fire Hazard Ratings Form (section 42-81). Where required as per section 54-404(b)(1), additional fire hazard reduction measures will be determined by the director of forestry and/or the fire chief.

- (b) If the wildfire hazard rating is 60 for constructed sites or 45 for unimproved land or greater, or otherwise as specified by the U/WIC, a report may be requested to be prepared by a qualified person approved by the director. The report shall, at a minimum, include the following:
 - (1) A description of the existing site characteristics including geologic, vegetative, topographical, and environmental conditions.
 - (2) A determination as to whether the site characteristics constitute a hazard.
 - (3) An assessment of the severity of the hazard and its implications relative to future development.
 - (4) An analysis of the intensity and character of existing and proposed development and its effect on the hazard.
 - (5) An analysis of the relationship between the development and the hazard, both inside and outside the impacted area.
 - (6) Recommendations pertaining to the form, type and extent of the required mitigation measures as outlined in the U/WIC and in this article.

(Ord. No. 2002-05, 6-25-02; Ord. No. 2004-03, 5-11-04)

Sec. 54-406 SEC. 54-406. REVIEW PROCEDURES.

- (a) The review procedure for the provisions of this article shall coincide with the procedures specified in this Code for the type of development or use proposed and the requirements of the underlying zoning district. In the event of any conflict, the procedures of this article shall control.
- (b) All decisions made by either the director or the planning commission pursuant to the provisions of this article shall be appealable as provided in this Code. The appellate body may approve or disapprove the decision, and may apply such reasonable conditions to its approval as will further the purposes of this article including, but not limited to:
 - (1) Alteration of the physical characteristics of the land;
 - (2) Alteration to the vegetative features of the land; or
 - (3) Construction standards required of structures proposed.

(Ord. No. 2002-05, 6-25-02; Ord. No. 2004-03, 5-11-04)

Sec. 54-407 —54-698. RESERVED.

ARTICLE VII. WIRELESS TELECOMMUNICATIONS FACILITIES

Sec. 54-699 SHORT TITLE.

This article shall be known and cited as the "Wireless Telecommunications Facilities Siting Ordinance" of the Village of Ruidoso, New Mexico, (hereinafter referred to as the "ordinance"). This article shall supersede all other aspects of this Code, including special use permits and variances, as they may pertain to the construction, erection and/or expansion of wireless telecommunications towers and facilities. This ordinance shall not include amateur radio operators' equipment as licensed by the FCC.

(Ord. No. 2012-05, 6-12-12)

Sec. 54-700 SEC. 54-700. AUTHORITY.

This article is adopted pursuant to the enabling provisions of the Constitution of the State of New Mexico and NMSA 1978.

(Ord. No. 2012-05, 6-12-12)

Sec. 54-701 SEC. 54-701. PURPOSE.

The purpose of this article is to provide a process and a set of standards for the placement, modification, and construction of wireless telecommunications towers and facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the village.

(Ord. No. 2012-05, 6-12-12)

Sec. 54-702 DEFINITIONS.

The terms used in this article shall have the following meanings:

Antenna means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Antenna support structure means any building or structure other than a tower which can be used for location of telecommunications facilities.

Antenna height means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

Applicant means any person that applies for a telecommunications facilities permit.

Application means the process by which the owner of a parcel of land and the owner of a tower within the village submits a request to develop, construct, build, modify, or erect a telecommunications facility upon such parcel of land; application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the village concerning such a request.

Camouflage means to disguise the function of a wireless communications site. Examples include building facilities to resemble clock towers, trees, steeples, flagpoles, etc. Sometimes known as "stealth" towers or facilities that are designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower, such as light poles, power poles, and trees.

Co-location means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Designated scenic resource means that specific location, view, or corridor, as identified as a scenic resource in the village that consists of one or both of the following:

- (a) A three-dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skyline or mountain range, resulting in a panoramic view corridor; or
- (b) Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

Engineer means any engineer licensed as a professional engineer by the State of New Mexico.

Expansion means the addition of antennas, towers or other devices to an existing structure.

Height means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished point of the building or structure. The highest point shall include farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

Historic or archaeological resources means resources that are:

- (a) Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
- (b) Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
- (c) Individually listed on a local inventory of historic places in Ruidoso; or
- (d) Areas identified by the village as having significant value as a historic or archaeological resource and any areas identified in the village's comprehensive plan.

Historic district means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development or identified in the village's comprehensive plan. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

Historic landmark means any improvement, building or structure of particular historic or architectural significance to the village relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history.

Line of sight means the direct view of the object from the designated scenic resource.

Owner means any person with fee title or long-term (exceeding ten years) leasehold to any parcel of land or existing tower within the village who desires to develop, or construct, build, modify, or erect a tower upon such parcel of land.

Parabolic antenna (also known as satellite dish antenna) means an antenna that is bowl-shaped, designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

Person means any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

Principal use means the use other than one that is wholly incidental or accessory to another use on the same premises.

Public recreational facility means a regionally or locally significant facility, as defined and identified either by state statute or in the village's adopted comprehensive plan designed to serve the recreational needs of village property owners.

Stealth means any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.

Targeted market coverage area means the area which is targeted to be served by this proposed telecommunications facility.

Telecommunications facilities means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

- (a) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or
- (b) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

Tower means a self-supporting lattice, guyed, or monopole structure constructed from grade that supports telecommunications facilities, but shall not include amateur radio operators' equipment as licensed by the FCC.

Unreasonable adverse impact means that the proposed project would produce an end result which is:

- (a) Excessively out of character with the designated/described historic, architectural, or scenic resources affected, including existing buildings, structures and features within the designated scenic resource; and
- (b) Would significantly diminish the visual aesthetic value of the designated/described historic, architectural, or scenic resource.

Viewpoint means that location which is identified whether in the adopted comprehensive plan or by a federal or state agency, or which serves as the basis for the location and determination of a particular designated scenic resource.

Wireless telecommunications facility means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, common carrier wireless exchange access services, and personal communications service (PCS) or pager services; cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications. A telecommunications facility shall not include the following:

- (a) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or
- (b) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

- (c) The definition of wireless telecommunications facility as used herein shall not include amateur radio operators' equipment as licensed by the FCC.

(Ord. No. 2012-05, 6-12-12)

Sec. 54-703 APPLICATION PROCESS.

Wireless telecommunications facilities are a conditional use in all zones. Any person seeking to construct, erect, build or replace a tower or telecommunications facility will be required to apply for approval from the village under this ordinance and shall submit an application along with the following documentation and information meeting the village's standards.

- (a) *Application.* The village will provide, upon request, application forms for approval pertaining to the construction, erection or increase in height of wireless telecommunications towers and facilities, see section 22-31b.(19) of this Code. All applications for tower approval must be in writing, must be on the form provided by the village and must include the information required in section 54-67, except as modified or augmented by the following:
 - (1) Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and of the applicant.
 - (2) Identification of districts, sites, buildings, structures or objects, significant in history, architecture, archaeology, engineering or culture, as well as places, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); CFR 60 and 800).
 - (3) A detailed camouflage plan for both the site and the structure.
 - (4) A site plan drawn to a scale of one-inch equals 100 feet prepared and certified by a design professional registered in the State of New Mexico indicating:
 - a. Location, type, and height of the proposed facility.
 - b. Antenna capacity.
 - c. On-site and abutting off-site land uses.
 - d. Means of access.
 - e. Setbacks from property lines.
 - f. All applicable technical and structural codes.
 - (5) A scenic assessment, consisting of the following:
 - a. Elevation drawings of the proposed facility and any other proposed structures, showing height above ground level.
 - b. A landscaping plan indicating the proposed placement of the facility on the site including:
 - 1. A detailed camouflage plan for both the site and the structure;
 - 2. Location of existing structures, trees, and other significant site features;
 - 3. The type and location of plants proposed to screen the facility;
 - 4. The method of fencing, the color of the structure and any proposed lighting method.

- c. Photo simulations of the proposed facility must be taken. Each photo must be labeled with the line of sight, elevation, and the date the photograph was taken. The photos must show the color of the facility, the method of screening and the camouflage plan.
 - (6) A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
 - (7) An application for approval shall include payment of the application fee for conditional use permit. The application shall not be considered complete until this fee is paid. This fee is non-refundable.
- (b) *Standards.* No application shall be submitted for consideration or approved by the Ruidoso Planning Commission unless the following standards are met:
- (1) Reserved.
 - (2) *Siting on village property.* If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on village property, the applicant must show the following:
 - a. The proposed location complies with applicable village policies and ordinances.
 - b. The proposed facility will not interfere with the intended purpose of the property.
 - c. The applicant has adequate liability insurance and a lease agreement with the village that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interest in the property.
 - (3) *Design for co-location.* A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three additional wireless telecommunications facilities or providers. However, the village council may waive or modify this standard in the event co-location is not feasible. The applicant must show to the planning commission's satisfaction why co-location on an existing facility is not feasible.
 - (4) *Height.* Towers are exempt from the maximum height restrictions of the zoning districts where located. Towers shall be permitted to a height of 150 feet. Tower height shall be measured from grade.
 - (5) *Setbacks.* A new or expanded wireless telecommunications facility must comply with the setback requirements for the zoning district in which it is located, or be set back 105 percent of its height from all adjacent residential properties. The setback may be satisfied by including areas within the residential property that are encumbered by an easement restricting placement of any habitable structure. The following exemptions apply:
 - a. This setback may be reduced by the village planning commission upon a showing by the applicant, stamped by an engineer, that the facility is designed to collapse in a manner that will not harm other property.
 - b. An antenna is exempt from the setback requirement if it extends no more than five feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.
 - (6) *Landscaping.* A new wireless telecommunications facility and related equipment must be

screened with plants from view by abutting properties. All telecommunications facilities shall have one or more rows of evergreen trees, shrubs, earth-tone stucco walls, or berms capable of screening the base of the tower and all accessory equipment from view from adjacent properties. A break of not more than 15 feet in the visual barrier may be allowed for maintenance access. Existing plants and natural landforms on the site shall be preserved to the maximum extent practicable.

- (7) *Fencing.* A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structures by trespassers.
- (8) *Lighting.* Lighting of the facility is not permitted except as required by state or federal laws and/or regulations and/or to the extent deemed necessary by the planning commission for safety purposes.
- (9) *Color and materials.* A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
- (10) *Visual impact.* The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the village, as identified either in the adopted comprehensive plan, or by a state or federal agency.
 - a. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the planning commission shall consider the following factors:
 - 1. The extent to which the proposed wireless telecommunications facility is visible above the tree line from the viewpoint(s) of the designated scenic resource;
 - 2. The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
 - 3. The extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);
 - 4. The amount of vegetative screening;
 - 5. The distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and
 - 6. The presence of reasonable alternatives that allow the facility to function consistently with its purpose.
- (11) *Historical and archaeological properties.* The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site, or structure, which is currently listed on, or eligible for listing on the National Register of Historic Places.
- (12) *Camouflage.* All telecommunications facilities must be camouflaged to the greatest extent reasonably possible and in a manner approved by the planning commission.
- (13) *Advertising.* No wireless communications facility shall display any sign or advertising.

(Ord. No. 2012-05, 6-12-12; Ord. No. 2019-02 , 3-12-19)

Sec. 54-704 APPROVAL OR DENIAL PROCESS.

- (a) *Public hearing.* Upon receipt of a complete application(s), the planning administrator shall schedule a public hearing to be held before the planning commission. The procedures for review and approval of a conditional use as set forth in section 54-68 shall be followed.
- (b) *Hearing notices.* Notice of any public hearing shall follow the requirements of section 54-40.
- (c) *Approval of application.* Approval of the application shall follow the requirements of section 54-68.
- (d) *Appeal of planning commission decision.* Any person may appeal the decision of the planning commission as provided in section 54-62.

(Ord. No. 2012-05, 6-12-12)

Sec. 54-705 RESERVED.

Editor's note(s)—Ord. No. 2019-02 Editor's note(s)—, adopted March 12, 2019, repealed § 54-705 Editor's note(s)—, which pertained to building permits and derived from Ord. No. 2012-05, adopted June 12, 2012.

Sec. 54-706 ADMINISTRATION AND ENFORCEMENT.

The planning administrator shall enforce this chapter. If the planning administrator finds that any provision of this ordinance has been violated, the planning administrator shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The planning administrator shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance. Any violation of the terms of this ordinance or of the permit and application shall be subject to the maximum penalties and fines as provided in this Code. Each day of any such violation or failure to perform pursuant to this Code shall constitute a separate offense and the village may file multiple citations for each day that a violation continues.

(Ord. No. 2012-05, 6-12-12)