

LAND USE

Cross references: Buildings and building regulations, Ch. 8; Development fee, § 8-27;
Removal of earth, § 24-21; Parks and recreation, Ch. 26.

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ARTICLE I. IN GENERAL

Section 18-1. Northwest sector plan.

(a) The Northwest Sector Plan.

(b) The Far Northwest Sector Plan, Addendum to Northwest Sector Plan. The Northwest Sector Plan and the Far Northwest Sector Plan are not printed in this publication but are on file and available for inspection in the Village offices.

History: Ord. No. 243, adopted 7-28-92; Ord. No. 277, adopted 5-9-95; Ord. No. 342, adopted 2-12-02; Ord. No. 343, adopted 6-11-02; Ord. No. 345, adopted 6-11-02; Ord. No. 347, adopted 7-9-02; Ord. No. 365, adopted 9-9-03; Ord. No. 385, adopted 7-13-04; Ord. No. 389, adopted 7-27-04; Ord. No. 390, adopted 9-14-04; Ord. No. 06-02, adopted 5-23-06; Ord. No. 07-01, adopted 2-13-07.

Sections 18-2 to 18-25. Reserved.

ARTICLE II. ZONING

State law reference – Zoning regulations, NMSA 1978, § 3-21-1 et seq.

Section 18-26. Jurisdiction.

This article governs all real property located within the incorporated limits of the Village.

History: Ord. No. 192, § 8-1-2, adopted 11-13-89; Ord. No. 09-005, adopted 5-19-09.

Section 18-27. Purpose.

(a) This article helps achieve the goals for wise growth management within the Village. Its purpose is to promote the health, safety, and general welfare of the residents of the Village by controlling the use of land so that it is developed in harmony with existing uses.

(b) The regulations in this article are necessary to:

- (1) Insure compliance with the Village Comprehensive Plan;
- (2) Promote the most appropriate use of land throughout the Village;
- (3) Provide adequate light and air;
- (4) Minimize congestion on the streets and public ways;
- (5) Secure safety from fire, panic and other dangers;
- (6) Avoid undue concentrations of population;
- (7) Prevent the overcrowding of land;
- (8) Facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements;
- (9) Conserve the value of buildings and land;
- (10) Maintain the rural character of the Village; and,

(11) Assure the right to cultivate land and maintain livestock in accordance with the Right to Farm Act as provided in NMSA 1978, Chapter 47, Article 9, and Section 18-30 of the Village Code.

History: Ord. No. 192, § 8-1-3, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 06-16, adopted 11-28-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-28. Application of article.

(a) Any use not classified as a permissive use or a use by review within a particular zone is hereby prohibited from that zone.

(b) Structures erected, converted, enlarged or structurally altered, and the use of any land shall be in compliance with the regulations established in this article for the zone in which such land or structure is located.

(c) All structures shall be constructed according to the Corrales Building Code (Chapter 8, Article II of the Village Code) and other technical codes adopted by the Village as of the date of the structure's construction.

(d) The zones and boundaries of zones as shown on the zone map adopted under this article are incorporated herein and made a part of this article. Following November 20, 1989, all lands annexed to the Village shall be automatically zoned A-1 unless the annexation petitioners apply for, and the Governing Body approves, other zoning.

(e) The provisions of this article shall be held to be minimum requirements to meet the purpose and intent expressed in Section 18-27.

History: Ord. No. 192, § 8-14, adopted 11-13-89; Ord. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-29. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to

them in this section, except where the context clearly indicates a different meaning:

Abutting, adjacent, or contiguous means touching and/or separated by no more than fifty (50) feet where the intervening land is a ditch, canal, easement or right-of-way, whether public or private.

Accent lighting means any directional lighting that emphasizes a particular object or draws attention to a particular area.

Accessory uses and structures means uses and structures which are clearly incidental and subordinate to principal uses and structures located on the same property.

Administrator means the Planning and Zoning Administrator of the Village.

Adobe means bricks, whether stabilized or unstabilized, made of earth along with straw or similar incorporated materials, and includes all classes of adobe described in Section 14.7.4.10 of the New Mexico Administrative Code.

Agricultural activities means the tilling of the soil, the raising of crops, horticulture, and animal husbandry.

Agricultural products means products that are the direct result of agricultural activities and includes added value products made for direct sale by their creators from the products of the creators' own agricultural activities.

Antenna means equipment designed to transmit or receive electronic signals.

Application means all the documents and fees required to be submitted to the Village for a permit or approval.

Assisted living means the provision to residents of a housing facility or community of varying levels of domiciliary care, including as a minimum room, board, and living assistance.

Attached means two or more structures connected by exterior walls creating an enclosed and heated dwelling space.

Bed and breakfast means a dwelling unit with a permanent resident and a subordinate use of up to six guest rooms which may be rented for a short term overnight lodging with breakfast served to overnight guests only; some or all guest rooms may be in accessory living quarters.

Buffer means a wall, fence and/or landscaping located between nonresidential and residential property, or adjacent to the common boundary thereof, for the purpose of mitigating the effects of nonresidential activity on residential property.

Build means to erect, convert, enlarge, reconstruct or structurally alter a structure.

Building means any roofed structure built for occupancy and use by persons or property, including animals or livestock.

Building inspector means the building inspector appointed by the Village as provided by Section 8-29(a) of the Village Code.

Commission means the Planning and Zoning Commission of the Village.

Demolition means the intentional act of substantially pulling down, destroying, dismantling, defacing, removing or razing a building or structure, or commencing the work of a total, substantial or partial destruction of a building or structure with the intent of completing the same. Also included within the meaning of *demolition* is the act or process of delaying or withholding maintenance of a building or structure in such a way as to cause or allow significant damage to occur which may result in a hazard or nuisance.

Disabling glare means lighting that impairs visibility and creates a potentially hazardous situation for pedestrians or motorists.

Driveway means a non-dedicated or non-granted access area set aside to provide vehicular entry and egress for one or more properties from or to a street.

Dwelling unit means any building or part of a building intended for human occupancy and containing one or more connected rooms and a single kitchen, designed for one family for living and sleeping purposes.

Easement means an interest which a person or persons has in the land of another, which allows an individual a right of use over the property of another for a specific purpose.

Event center means a building where activities may include service of food and beverages, live or recorded music, use of sound systems and microphones, dancing, and other types of celebrations, in the "C" Neighborhood Commercial Zone.

Family means one or more persons occupying a single dwelling unit, all of whom are related to each other by blood, marriage or legal adoption, or no more than five (5) persons occupying a single dwelling unit if they are not all related to each other by blood, marriage or legal adoption

Floor area means the combined area of each separate story under the roof as measured from the outer dimensions of the enclosed area.

Frontage means a distance measured along a primary right-of-way and/or access easement abutting a lot.

Front setback means the minimum allowable distance between a structure (fences, walls and signs excepted) and the boundary line of the lot upon which such structure is located, which borders on the primary access to the lot.

Glare means the brightness of a light source sufficient to cause eye discomfort for an average person not suffering from any visual impairment.

Grade means the elevation at a defined point.

Ground cover means plant material on the surface of the land for decorative, ornamental, or agricultural use which obscures the native soil.

Group home means a dwelling unit that is licensed or operated by the State as a community residence providing housing, care and counseling or therapy for elderly residents or residents who are mentally ill, handicapped, or developmentally or physically disabled.

Growers' market means a direct marketing facility governed and operated by its vendors and by residents of the Village providing a location where New Mexico agricultural products, including food products, are offered for direct sale by their producers to the general public.

Height means the vertical distance of any building and/or structure measured from the lowest undisturbed grade adjacent to the structure to the highest point of the structure.

Home occupation means an occupation or activity conducted by the resident which is clearly incidental and secondary to the use of the premises as a dwelling unit approved by the Commission.

Housing facility or community means any dwelling or group of dwelling units governed by a common set of rules, regulations or restrictions; provided, however, that a portion or portions of a single building, less than the entirety thereof, shall not constitute a housing facility or community.

Impervious surface means any applied surface which does not permit water to percolate through.

Independent living means the provision to residents of a housing facility or community of limited levels of domiciliary care, including as a minimum room and board.

Intersection means the point or line where two lines or surfaces meet or cross including the place where two or more streets meet or cross.

Jurisdiction means all territory within the incorporated limits of the Village.

Kitchen means any room principally used, intended or designed to be used for cooking or the preparation of food. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall be considered as establishing a kitchen.

Lamp or bulb means that portion of the fixture that produces light by attaching to a socket within the fixture.

Landscaping means the planned introduction of living plants such as trees, shrubs, ground cover, or grass and non-living materials such as rocks, gravel, mulch, fences, walls, or paving materials, but does not include the growing of crops, fruit trees, vegetables or nursery stock for commercial purposes.

Legal notice means giving the public notice of a hearing at least 30 days before the date of the hearing, by posting in the Village and also by mailing written notice by certified mail, return receipt requested, not less than 15 days before the date of the hearing, to the owners of all property within 300 feet of the exterior boundaries, excluding public right-of-way, of the property on which a hearing has been requested, using for these purposes the last known name and address of the owners shown in the records of the County assessor.

Light pollution means excessive or inappropriate artificial light. Light pollution causes an adverse effect on the night sky in a number of ways by decreasing the ability to see the natural night sky.

Light trespass means light emitted by a luminaire that shines beyond the property on which the luminaire is installed.

Localized storm water means water from natural precipitation flowing over the property, on which it falls.

Lot means a parcel or tract of land platted and recorded with the County clerk in accordance with appropriate laws and ordinances.

Lot coverage means the total area covered by all impervious surfaces on a lot divided by the area of the lot.

Lot width means the perpendicular distance measured from the longest, straight (non-curve) lot boundary line to the opposite lot boundary line(s).

Lot width standard means the value assigned to lots within an established zone; used to determine if the lot complies with the lot width requirement.

Lumen means a unit of light of illumination from a lamp or bulb, as defined by the International System of Units (“SI”). One lumen is the radiant flux emitted over a solid angle of one steradian by a point source having a brightness of one candela. This measure the total amount of visible light emitted from a source so that the unit reflects the varying sensitivity of the human eye to different wavelengths.

Luminaire or fixture means a complete lighting unit, including the lamps or bulbs, as well as the parts that connect to power, the housing that protects the bulbs and parts that distribute the light.

Manufactured housing means a manufactured home or modular building that is a single-family dwelling unit. with a heated area of at least 36 feet by 24 feet and at least 864 square feet, 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 (42 U.S.C. 5401 et seq.), and the Housing and Urban Development Code, as amended to the date of the unit’s construction, and installed consistent with the Manufactured Housing Act and with the regulations made pursuant thereto pertaining to ground level installation and anchoring.

Mobile home means a moveable or portable housing structure that is a single family dwelling unit.

Nuisance glare means light that creates an annoyance or aggravation but does not create a potentially hazardous situation.

Open meetings resolution means the most recent resolution adopted by the Planning and Zoning Commission which sets rules for the notice of meetings to the public that are consistent with the applicable provisions of the Open Meetings Act, Sections 10-15-1 through 10-15-4, NMSA 1978.

Open space area means the undeveloped ground area which may be covered with vegetation, landscaping, and/or non-vehicular paths.

Parking space, off-street means an area not in a roadway and having an area of not less than 180 square feet, exclusive of driveways, reserved for the intermittent storage of one automobile and connected with a street or alley by a driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

Pathway means a constructed way or trace, whether located on public right-of-way, an easement, or elsewhere, designed primarily for pedestrian, equestrian, and non-motorized vehicular use, except for motorized wheelchairs and similar transport used by persons with disabilities.

Permit means a written license or warrant issued by an authority, empowering the grantee to do some act not otherwise allowable.

Planning and Zoning Commission means the seven member Commission appointed by the Mayor with the advice and consent of the Governing Body, serving staggered terms of two (2) years each and residing within the Village limits.

Ponding means the provision for retention of localized storm water on site.

Public notice means the posting of notices within the Village as required by the annual open meetings resolution adopted by the Governing Body and/or Planning and Zoning Commission pursuant to NMSA 1978, § 10-15-1, as amended.

Public right-of way means dedicated and accepted public land deeded to the Village or reserved by plat, or otherwise acquired by the Village, county or State.

Quasi-public means a use operated by a private or public nonprofit educational, religious, recreational, charitable, fraternal or medical institution, association or organization, the use having the purpose primarily of serving the general public and including but not limited to such uses as churches, private schools, community youth and senior citizen recreational facilities, meeting halls, private hospitals and similar uses.

Recreational use lighting means lighting devices designed for the purpose of illuminating a playing field so as to allow sports and recreation in the evening hours.

Roadway means that portion of a street which is primarily devoted to vehicular traffic.

Runoff means that portion of storm water which is not absorbed by the surface on which it falls.

School means a facility in which a supervised program of general instruction is provided by certified school instructors (as defined in Section 22-1-2(AA), NMSA 1978) to students in any grade or grades from pre-school or kindergarten through the twelfth (12th) grade. To qualify as a school for purposes of this article, a facility offering instruction to students in grades one (1) through twelve (12), or any of them, must in those grades, as a minimum, provide instruction in grammar, mathematics, science, and social science.

Senior living facility means a housing facility or community (A) that is intended for and is operated for occupancy by persons sixty-two (62) years of age or older; (B) in which at least ninety (90) percent of the occupied dwelling units are occupied by at least one person who is sixty-two (62) years of age or older; and (C) that provides significant facilities and services specifically designed to meet the physical and social needs of older persons, including as a minimum, assisted living, or skilled nursing care, or a combination thereof. It may optionally include independent living.

Setback means the minimum distance between any building or structure (fence, walls and signs excepted), and a boundary line of the lot upon which it is located.

Shielding means that no light rays emitted by a fixture above the horizontal plane running through the lowest point of the fixture where light is emitted.

Sign means a sign as defined in Section 8-91 of the Village Code, including all restrictions and qualifications contained therein.

Site development plan means drawings, specifications, and documents depicting land use improvements prepared and certified by a qualified architect, engineer, or landscape architect, registered in New Mexico.

Skilled nursing care means the provision to residents of a housing facility or community of varying levels of domiciliary care, including as a minimum room, board, and living assistance, skilled nursing care and prescribed medical treatment.

Spotlight or floodlight means any lamp that incorporates a reflector or a refractor to concentrate light output into a directed beam in a particular direction.

Street means a way, right-of-way or easement, whether on public or private land, used or intended to be used by the general public and open to the general public for passage or travel by motor vehicle, but does not include a driveway or similar way designed or created for access to a single property or a limited number of properties, merely by virtue of providing access to such properties for the general public.

Street pull-off means an area adjacent to and contiguous with a street or roadway, demarcated and set aside for the use of vehicles to facilitate the passing of vehicles so as to enhance the flow of traffic and access for emergency vehicles.

Structure means any construction or any production or piece of work consisting of a combination of materials to form an edifice or building of any kind, or a construction for occupancy, use or ornamentation that is installed on, above, or below the surface of the land.

Subdivide means to divide or redivide land into two or more parts for the purpose, whether immediate or future, of sale, lease, offer, or development, whether by deed, metes and bounds description, lease, map, plat or other instrument, including all changes in street or lot lines. *Subdivide* does not include the following actions:

- (1) The lease of land for grazing or farming activities.
- (2) The lease of apartments, offices, stores or similar space within a building.
- (3) The lease of a building within a commercial or office development.
- (4) The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land.

Subdivision means:

- (1) The act of subdividing; or
- (2) The parcel of land subdivided.

Terrón Means cut sod bricks as described in Section 14.7.4.10.C of the New Mexico Administrative Code.

Variance means an approved, limited relaxation from the strict application of this article applicable to a designated parcel or parcels of land.

Watt means a unit of electric power flowing into a lamp of bulb, as defined by the International System of Units (“SI”). One watt is a rate of energy transfer of one joule per second.

Xeriscaping means landscaping in a manner that reduces or minimizes the need for water. Xeriscaping may include but is not limited to the use of native and drought-tolerant plants and the use of efficient systems of irrigation.

Zone means a section of the jurisdiction, delineated on the Village zone map to which specific zoning regulations apply.

History: Ord. No. 220, adopted 10-9-89; Ord. No. 192, § 8-1-5, adopted 11-13-89; Ord. No. 372, adopted 10-28-03; Ord. No. 06-02, adopted 5-23-06; Ord. No. 06-016, adopted 11-28-06; Ord. No. 07-08 § 1, adopted 6-26-07; Ord. No. 08-008, adopted 8-12-08; Ord. No. 08-007, adopted 8-26-08; Ord. No. 09-003, adopted 4-14-09; Ord. No. 09-005, adopted 5-19-09; Ord. No. 10-004, adopted 6-22-10; Ord. No. 10-008, adopted 9-28-10; Ord. No. 12-003, adopted 2-14-12; Ord. No. 12-006, adopted 3-27-12; Ord. No. 13-003, adopted 3-26-13.

Section 18-30. General regulations.

(a) *Access to structures.* All structures shall be located such that safe and legal access is provided for emergency vehicles, service vehicles, police and fire protection, and required off-street parking or loading.

- (1) Gates on driveways must provide minimum clearances of twelve (12) feet in width and thirteen and one-half feet (13 feet 6 inches) in height to provide adequate clearance for emergency vehicles.
- (2) Where a lot is served by a roadway having a width of twenty (20) feet or less and a length of one thousand (1,000) feet or more, the Administrator may, in his or her discretion, require the construction of a street pull-off at a designated location on the roadway as a condition of development approval for the lot.
- (3) In addition to all applicable provisions of this Chapter, access to and from roads and highways owned and maintained by the New Mexico Department of Transportation, including but not necessarily limited to Corrales Road (New Mexico State Highway 448) shall be in accordance with applicable regulations of the New Mexico Department of Transportation. The applicant for a building permit, site development plan, special use permit, or any other permit under this Chapter or under Chapter 8 (Buildings and Building Regulations) may be required by the Village to demonstrate compliance with applicable New Mexico Department of Transportation regulations and approval by the New Mexico Department of Transportation as a condition for approval of such permit.

(b) *Storm water retention.* Storm water retention shall be in accordance with all applicable Village and State ordinances and requirements. All improved or developed lots shall retain localized storm water on site unless otherwise approved by the Village engineer. Land east of the Corrales Main Canal shall be exempt from the requirement to submit a grading and drainage plan for developed properties provided that an affidavit stipulating that the land has a 1% or less slope signed and sealed by a surveyor or professional engineer licensed in the State of New Mexico has been provided and a grading and drainage plan has not been specifically required by the Commission or the Administrator. The Commission or the Administrator may require a grading and drainage plan in the event the Commission or the Administrator finds that a grading and drainage plan is needed to adequately address water retention on the site even if located east of the Corrales Main Canal.

(c) *Grading permits.* When a grading permit is required, applications for the permit shall show compliance with the following minimum standards.

(1) *Cut and fill slopes.*

- a. Cut slopes on a site shall not exceed ten (10) feet in height. In no case shall the height of a cut exceed the height of the building.
- b. Fill slopes on a site shall not exceed fifteen (15) feet in height. Retaining walls for fill slopes shall be no greater than ten (10) feet in height. Retaining walls in the case of cement, generating no additional runoff, shall be a matching earth tone color or constructed of natural materials. Unstabilized fill slopes shall be no steeper than 3:1 (3 horizontal to 1 vertical); unless a structural alternative such as a retaining wall or some other measure acceptable to the Village Engineer is provided.
- c. Cut or fill slopes for roads and driveways shall not exceed 15 feet in height; and

- d. All cut slopes that are not stabilized by a retaining wall or some other measure acceptable to the Village Engineer, shall be no steeper than 3:1 (3 horizontal to 1 vertical), unless a structural alternative is provided or unless it can be demonstrated by the geotechnical study that existing soils will naturally accommodate a steeper slope and acceptable revegetation, or other erosion control can be achieved;

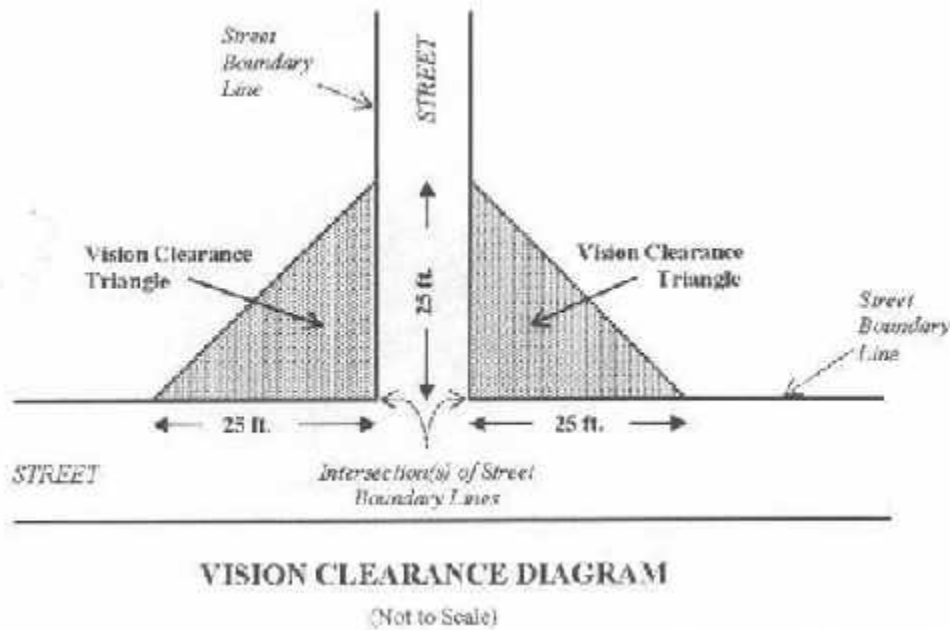
(2) *Grading.*

- a. Grading on building sites is limited to fifteen (15) feet beyond the outer edge of the building foundation, patio, wall, driveway, road, street, parking area, or other constructed facility on all sites and construction projects including both new construction and reconstruction except:
 1. As necessary for the construction of runoff management measures in compliance with this section; or
 2. As necessary to accommodate required horizontal to vertical measurements for cut and fill slopes.
 3. As necessary to accommodate water and waste water systems.
 4. Private driveways shall not exceed a grade of 8 percent, nor shall the inside turning radius of any private driveway be less than fifteen (15) feet. All cul-de-sacs shall not exceed five (5) percent grade for any lot or subdivision.
 5. Natural slopes greater than eight (8) percent may be regraded to create building pads, slab on grade, stem wall and split level, so long as the following conditions are satisfied:
 - i. The applicants meet requirements for cut and fill slopes.
 - ii. An approved revegetation plan is executed for the disturbed areas including lot or subdivision roadways.

- (3) *Erosion control.* Swales alongside roadways shall have drop structures or other erosion control structures (such as gabian baskets, rip-rap stone) as necessary to prevent damage caused by erosion.

(d) *Water and wastewater requirement.* All buildings constructed within the Village shall be in compliance with applicable regulations established by the New Mexico Environment Department and the New Mexico State Engineer's Office concerning water and wastewater facilities and systems.

(e) *Vision clearance.* At all street intersections, no obstruction to view shall be placed or maintained between three (3) and eight (8) feet above the roadway grade in a triangular space at the corner(s) of the *street* intersection. Such triangular space shall be bounded by the street boundary lines and a diagonal line connecting two points twenty-five (25) feet distant from the intersection of the street boundary lines. Where unique roadway conditions exist, such as curves, the Commission, on the recommendation of the Village engineer, may require a distance greater than twenty-five (25) feet distant from the intersection of the street boundary lines to ensure vision clearance.

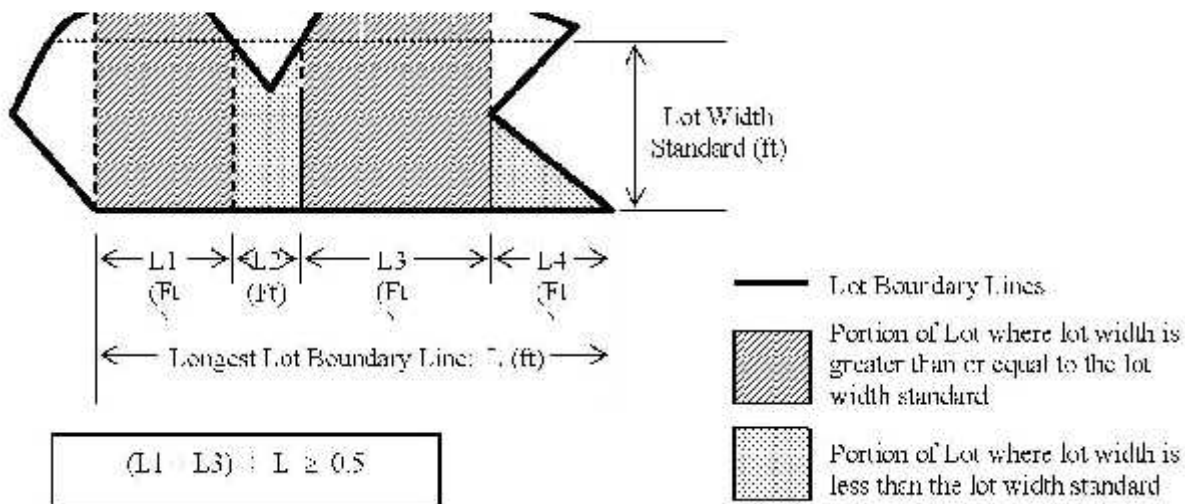


(f) *Height restrictions.* No building, antenna, and/or structure of any type shall exceed 26 feet in height, with the exception of municipal uses for public safety and/or municipal water storage facilities; and provided further that utility poles needed to provide service to facilities located in areas of the Village where the established utility structures are above ground in existing overhead public utility easements shall not exceed forty (40) feet in height (elevation) from grade.

(g) *Preservation of solar access.* No structure shall be placed in any way to diminish an existing building's access to the sun and protection for solar collectors as set forth in the Solar Rights Act, NMSA 1978, Chapter 47, Article 3.

(h) *Lot width requirement.* Each lot shall comply with the following: At least fifty percent (50%) of the lot width must be greater than or equal to the lot width standard. To determine if the lot complies:

- (1) Identify the portion(s) of the lot where the lot width is greater than or equal to the lot width standard.
- (2) Measure the segment(s) of the longest lot boundary line resulting from (1).
- (3) Add the sum of the lengths measured in (2).
- (4) Divide the sum in (3) by the total length of the longest lot boundary line from (1).
- (5) If and only if the quotient is 0.5 or greater, then the lot complies with the lot width requirement.

Figure 1 - Lot Width Requirement Diagram

(i) *Manufactured housing.* A dwelling unit with a heated area of at least 36 feet by 24 feet and at least 864 square feet, 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 (42 U.S.C. 5401 et seq.), and the Housing and Urban Development Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act, NMSA 1978, Chapter 60, Article 14, §§ 60-14-1 to 60-14-20, as amended and subsequent amendments and with the regulations made pursuant thereto pertaining to ground level installation and anchoring. All manufactured housing shall be placed upon permanent foundations.

(j) *Mobile home installation.* A dwelling unit larger than 40 feet in body length, eight feet in width and/or 11 feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes, but does not include structures built to the standards of any Village building code and other technical codes. All mobile homes shall be skirted within 90 days of placement on the lot, with material similar in color and texture to the exterior of the mobile home, so that the mobile home will look like a home site-built on a foundation. In no case shall there be a gap visible between the bottom of the mobile home and its skirting.

(k) *Occupancy requirements.* No building shall be occupied unless it is connected to a well or water supply system permitted by the State Engineer and a liquid waste system permitted by the New Mexico Environment Department, and unless a certificate of occupancy has been issued by the building inspector or a site development certificate of occupancy has been issued by the Administrator within twenty-four (24) months following site development plan approval by the Commission.

(l) *Disclosure of permissible uses in each zone.*

- (1) Prior to the transfer of property by any legally allowable means, the owner of the property or his/her agent will provide, at the time of receipt of an offer to purchase or at the time of transfer, a copy of a Right to Farm attachment consisting of the following portions of the Corrales Zoning Ordinance (Chapter 18, Article II): Section 18-27, Section 18-33 (1) and (2), Section 18-34 (1) and (2), Section 18-35 (1) and (2), Section 18-36 (1) and (2), Section 18-37 (1), (2) and (3), Section 18-38 (1) and (2), and the text of NMSA 1978, Chapter 47, Article 9, the Right to Farm Act.
- (2) The person accepting the transfer or taking ownership should provide written verification of

receipt of the Corrales Zoning Ordinance Right to Farm attachment to the transferor or seller.

- (3) The purpose is to advise the potential transferees or buyers of the permissive uses in each district, which includes the right to maintain livestock and the right to farm.

(m) *Standards for driveway access to private properties.*

- (1) *Permit required.* After February 28, 2015, every person seeking to make a driveway connection, paved or unpaved, for access to private property from any street owned or maintained by the Village shall do so only in accordance with a permit issued by the Building Inspector with the approval of the public works department.
- (2) *Application and supporting documentation.* Every person seeking to make a driveway connection for access to private property from a street owned or maintained by the Village shall submit an application in the form prescribed by the Village, with the required application fee and with a sketch or design drawing sufficient to show that the proposed driveway connection will not obstruct or otherwise impair any drainage or irrigation structures; any trail, sidewalk or pathway; any utility or other permitted use of the right of way; or any vision clearance triangle or other public safety requirement of the roadway as designed and constructed. Where the proposed driveway connection will cross any ditch, swale, channel, lateral or other drainage or irrigation structure in the right of way, the Village may require that the proposed design be supported by a design and calculations, prepared by an engineer licensed in New Mexico, to show that the driveway connection as designed will not impede the flow of water required to be carried by such ditch, swale, channel, lateral or other drainage or irrigation structure in a 100-year flood event, and upon completion a certification by the engineer that the driveway connection as constructed meets the design specifications.
- (3) *Driveway width.* No driveway connection to residential or agricultural property in the A-1, A-2 or H zone shall be more than twenty-four (24) feet in width.
- (4) *Existing driveway connections.* Driveway connection existing prior to February 28, 2015, shall be allowed to remain in place provided that they do not impede the flow of water in any ditch, swale, channel, lateral or other water conveyance facility and do not constitute a hazard or impediment to traffic or otherwise constitute a hazard to human health, safety or welfare. No such driveway connection shall be modified, reconstructed, rebuilt or repaired except in accordance with a permit issued by the Village under this Subsection 18-30(m).

History: History: Ord. No. 220, § 2, adopted 10-9-89; Ord. No. 192, § 8-1-6, adopted 11-13-89; Ord. No. 303, adopted 7-22-97; Ord. No. 06-02, adopted 5-23-06; Ord. No. 07-06, adopted 6-12-07; Ord. No. 07-08 § 2, adopted 6-26-07; Ord. No. 09-005, adopted 5-19-09; Ord. No. 10-012, adopted 12-21-10; Ord. No. 10-013, adopted 12-21-10; Ord. No. 14-04, adopted 2-11-14; Ord. No. 15-05, adopted 2-24-15.

Section 18-31. Zone boundaries.

(a) *Zones.* In order to carry out the provisions of this article, the jurisdiction is hereby divided into zones, as named and described in the following sections.

(b) *Zone map.* The boundaries of the zones are hereby established as shown on the Village zone map. The Village zone map is the map adopted as Appendix B to Ordinance No. 192, as subsequently amended by action of the Governing Body, a current copy of which is maintained on file and is available for public inspection in the Village offices.

(c) *Interpretation.* Where, due to scale, lack of detail, or illegibility of the Village zone map, there is an uncertainty, contradiction, or conflict as to the intended location of any zone boundaries shown therein, interpretation concerning the exact location of zone boundary lines shall be determined by the Planning and

Zoning Administrator.

(d) *Multiple zoned lots.* Circumstances may justify the need to designate more than one zone on a single lot. In such cases, zone boundaries within a multiple-zoned lot shall be more fully described on the ozone map by showing the relationship of the zones to the existing property lines.

History: Ord. No. 192, § 8-1-7, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-32. Establishment of zones.

For the purpose of this article, the following zones exist.

- A-1 Agricultural and rural residential
- A-2 Agricultural and rural residential
- H Historical area
- O Professional office
- C Neighborhood commercial
- M Municipal, public and quasi-public.

History: Ord. No. 192, § 8-1-8, adopted 11-13-89; Ord. No. 243, adopted 7-28-92; Ord. No.342, 2-12-02; Ord. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-33. A-1 - Agricultural and rural residential zone.

The following regulations shall apply to the A-1 - Agricultural and rural residential zone:

- (1) *Purpose and intent.* The purpose of this zone is to maintain a rural and open space character of lands within the Village with low density residential and agricultural development.
- (2) *Permissive uses.* Any of the following permissive uses are allowed in the A-1 zone:
 - a. One single-family dwelling unit per lot (permit required, see Section 18-45(a)).
 - b. One single-family manufactured house per lot (permit required, see Section 18-45(a)).
 - c. One single-family mobile home dwelling unit per lot (permit required, see Section 18-45(a)).
 - d. Raising crops.
 - e. Raising and management of livestock and fowl, provided that all areas devoted to livestock and fowl shall be maintained in such a manner that:
 1. They discourage concentration and breeding of insects and rodents which are detrimental to human habitation is discouraged.
 2. Livestock or fowl excrement shall be properly disposed of, and shall not be allowed to accumulate in amounts that cause unreasonable noxious odors.
 3. Drainage of livestock waste shall be contained on-site and controlled to avoid pollution of irrigation ditches, ground water, and drains and surrounding property.
 - f. Accessory uses and structures.

- g. Sale of livestock and/or crops raised on the premises.
 - h. Storage of accessory vehicles (e.g. agricultural equipment, trailers, boats, and recreational vehicles) owned by the on-site resident for personal use.
 - i. Home occupations (permit required, see Section 18-45(c)).
 - j. Parking incidental to the above uses.
- (3) *Density*. The maximum density shall be limited to one dwelling unit per net acre.
- (4) *Lot area*. The minimum area of each lot shall be 43,560 square feet.
- (5) *Lot dimensions*. Each lot shall have a lot width standard of seventy-five (75) feet. However, any lot two acres or more in size, with a minimum average standard width of less than seventy-five (75) feet as of the date of the adoption of this article, may be subdivided into lots having the same width as the lot being subdivided, provided that this authority shall not be construed to permit violation of other Village minimum size restrictions.
- (6) *Lot coverage*. Lot coverage shall not exceed thirty-five (35) percent.
- (7) *Setback requirements*. Front setbacks shall be no less than twenty-five (25) feet. Other setbacks shall be no less than ten (10) feet.
- (8) *Landscaping requirements*.
- a. No planting of Siberian/Chinese Elm, Russian olive or Tamarisk is permitted.
 - b. *Xeriscaping of newly constructed dwelling units*:
 - 1. Landscaped areas of newly constructed dwelling units shall be xeriscaped. Not more than twenty percent (20%) of the landscaped area of newly constructed dwelling units shall be dedicated to cold-weather grasses such as blue grass and fescue, unless such grasses are raised for and dedicated to the purpose of consumption by animals.
 - 2. For any newly constructed dwelling unit on a lot with a total area less than two and one half (2 ½) acres, the requirements of Paragraph 18-33(8)(b)(1) shall apply to the entire landscaped area of the lot. For any new home constructed on a lot with a total area greater than two and one half (2 ½) acres, the requirements of Paragraph 18-33(8)(b)(1) shall apply to the area immediately surrounding the home, including any area disturbed during the construction thereof, but the area on which xeriscaping is required shall not in any event exceed two and one half (2 ½) acres.
 - 3. The xeriscaping requirements set forth in this Subsection 18-33(8)(b) do not apply to areas that have been used historically for the cultivation of crops, and that continue to be so used despite the construction of a home on a portion of the lot or lots containing such cultivated areas, nor do they apply to those undisturbed areas of any lot or parcel of land which retain their natural vegetation.
 - 4. The xeriscaping requirements set forth in this Subsection 18-33(8)(b) shall apply to any landscaping of a newly constructed dwelling unit, but shall not be construed to require such landscaping unless otherwise mandated by Village ordinance or other law.

5. Landscaping found to be in violation of the xeriscaping requirements of this Subsection 18-33(8)(b) shall be modified by the property owner within six (6) months so as to conform to the xeriscaping requirements. Each failure of the property owner, after notice by the Village, to modify the landscaping within six (6) months thereafter so as to conform to the xeriscaping requirements, shall be deemed a separate violation of this section.
- (9) *Architectural requirements.* None.
- (10) *Placement of parking.* None.
- (11) *Uses by review.* The following uses are allowed in the A-1 zone district only upon the approval of a site development and/or subdivision plan by the Commission:
- a. Parks and playgrounds.
 - b. Clustering of single-family dwelling units and single-family modular or prefabricated housing-units. Manufactured housing or mobile homes are not allowed to be clustered.
 1. *Density.* The density of the development as a whole shall not exceed one dwelling unit per acre exclusive of the public roadway.
 2. *Lot dimensions.* Each lot shall have a lot width standard of seventy-five (75) feet. However, any lot two acres or more in size, with a minimum average width standard of less than 75 feet as of the date of the adoption of this article, may be subdivided into lots having the same width as the lot being subdivided, provided that this authority shall not be construed to permit violation of other Village minimum size restrictions.
 3. *Lot coverage.* Lot coverage shall not exceed thirty-five (35) percent.
 4. *Setback requirements.* Front setbacks shall be no less than twenty-five (25) feet. Other setbacks shall be no less than ten (10) feet.
 5. *Landscaping requirements.* A minimum of ten percent of the lot shall be landscaped area. Corner lots or double fronted lots shall provide a minimum of 15 percent of the lot as landscaped area. Landscaping or natural vegetation shall be required in accordance with the landscaping requirements as specified in Subsection 18-33(8).
 6. *Architectural requirements.*
 - i. The architectural style of the structure shall relate to the overall character of the surrounding neighborhood.
 - ii. The siting of the structure on the property shall relate to the siting of other structures in the surrounding neighborhood.
 - iii. The bulk, height and color of the structure shall relate to the bulk, height and color of other structures in the surrounding neighborhoods.
 7. *Placement of parking.* None.
 - c. *Group homes.*

1. The maximum capacity to house on the premises shall be no more than five patients.
2. The applicant must provide a traffic engineering analysis showing to the satisfaction of the Village engineer that the operation as proposed will not adversely affect the public safety either because of increased traffic or on street parking.

History: Ord. No. 192, § 8-1-9, adopted 11-13-89; Ord. No. 292, adopted 7-9-96; Ord. No. 372, adopted 10-28-03; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-34. A-2 - Agricultural and rural residential zone.

The following regulations shall apply to the A-2 - Agricultural and rural residential zone.

- (1) *Purpose and intent.* The purpose of the A-2 zone district is to maintain a rural and open space character of lands within the Village with low density residential development on larger lots.
- (2) *Permissive uses.* Any of the following permissive uses are allowed in the A-2 zone:
 - a. One single-family dwelling unit per lot (permit required, see Section 18-45(a)).
 - b. One single-family manufactured house per lot (permit required, see Section 18-45(a)).
 - c. A temporary mobile home for use as a primary dwelling unit and/or a temporary storage building related to a construction project on the premises, for a period of time not to exceed one year from the date the permit is issued.
 - d. Raising crops.
 - e. Raising and management of livestock and fowl, provided that all areas devoted to livestock and fowl shall be maintained in such a manner that:
 1. Concentration and breeding of insects and rodents which are detrimental to human habitation is discouraged.
 2. Livestock or fowl excrement shall be properly disposed of and, shall not be allowed to accumulate in amounts that cause unreasonable noxious odors.
 3. Drainage of livestock waste shall be contained on-site and controlled to avoid pollution of irrigation ditches, ground water, and drains and surrounding property.
 - f. Accessory uses and structures.
 - g. Sale of livestock and/or crops raised on the premises.
 - h. Storage of accessory vehicles (e.g. agricultural equipment, trailers, boats, and recreational vehicles) owned by the on-site resident for personal use.
 - i. Home occupations (permit required, see Section 18-45(c)).
 - j. Parking incidental to the above uses.
- (3) *Uses by review.* The following uses are allowed in the A-2 zone only upon the approval of a site development plan by the Commission:

- a. Parks and playgrounds.
 - b. *Group homes*.
 1. The maximum capacity to house on the premises shall be no more than five patients.
 2. The applicant must provide a traffic engineering analysis showing to the satisfaction of the Village Engineer that the operation as proposed will not adversely affect the public safety either because of increased traffic or on street parking.
- (4) *Density*. The maximum density shall be limited to one dwelling unit per net two acres.
- (5) *Lot area*. The minimum area of each lot shall be 87,120 square feet.
- (6) *Lot dimensions*. Each lot shall have a lot width standard of one-hundred fifty (150) feet in width.
- (7) *Lot coverage*. Lot coverage shall not exceed thirty-five (35) percent.
- (8) *Setback requirements*. Front setbacks shall be no less than twenty-five (25) feet. Other setbacks shall be no less than ten (10) feet.
- (9) *Landscaping requirements*.
- a. No planting of Siberian/Chinese Elm, Russian olive, or Tamarisk is permitted.
 - b. *Xeriscaping of newly constructed dwelling units*:
 1. Landscaped areas of newly constructed dwelling units shall be xeriscaped. Not more than twenty percent (20%) of the landscaped area of newly constructed dwelling units shall be dedicated to cold-weather grasses such as blue grass and fescue, unless such grasses are raised for and dedicated to the purpose of consumption by animals.
 2. For any newly constructed dwelling unit on a lot with a total area less than two and one half (2 ½) acres, the requirements of Paragraph 18-34(9)(b)(1) shall apply to the entire landscaped area of the lot. For any new home constructed on a lot with a total area greater than two and one half (2 ½) acres, the requirements of Paragraph 18-34(9)(b)(1) shall apply to the area immediately surrounding the home, including any area disturbed during the construction thereof, but the area on which Xeriscaping is required shall not in any event exceed two and one half (2 ½) acres.
 3. The xeriscaping requirements set forth in this Subsection 18-34(9)(b) do not apply to areas that have been used historically for the cultivation of crops, and that continue to be so used despite the construction of a home on a portion of the lot or lots containing such cultivated areas, nor do they apply to those undisturbed areas of any lot or parcel of land which retain their natural vegetation.
 4. The xeriscaping requirements set forth in this Subsection 18-34(9)(b) shall apply to any landscaping of a newly constructed dwelling unit, but shall not be construed to require such landscaping unless otherwise mandated by Village ordinance or other law.
 5. Landscaping found to be in violation of the xeriscaping requirements of this Subsection 18-34(9)(b) shall be modified by the property owner within six (6) months so as to conform to the xeriscaping requirements. Each failure of the property owner, after notice

by the Village, to modify the landscaping within six (6) months thereafter so as to conform to the xeriscaping requirements, shall be deemed a separate violation of this Section.

(10) *Architectural requirements.* None.

(11) *Placement of parking.* None.

History: Ord. No. 192, § 8-1-10, adopted 11-13-89; Ord. No. 292, adopted 7-9-96; Ord. No. 372, adopted 10-28-03; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-35. H - Historical area zone.

The following regulations shall apply to the H - Historical area zone:

(1) *Purpose and intent.* The H zone preserves and promotes the educational, cultural and general welfare of the public through preservation and protection of the traditional architectural character of historic Corrales.

(2) *Permissive uses.* Any of the following permissive uses are allowed in the H zone:

- a. One single-family dwelling unit per lot (permit required, see Section 18-45(a)).
- b. Raising crops.
- c. A temporary mobile home for use as a primary dwelling unit and/or a temporary storage building related to a construction project on the premises, for a period of time not to exceed one year from the date the permit is issued.
- d. Raising and management of livestock and fowl, provided that all areas devoted to livestock and fowl shall be maintained in such a manner that:
 1. Concentration and breeding of insects and rodents which are detrimental to human habitation is discouraged.
 2. Livestock or fowl excrement shall be properly disposed of and, shall not be allowed to accumulate in amounts that cause unreasonable noxious odors.
 3. Drainage of livestock waste shall be contained on-site and controlled to avoid pollution of irrigation ditches, ground water, and drains and surrounding property.
- e. Accessory uses and structures.
- f. Sale of livestock and/or crops raised on the premises.
- g. Storage of accessory vehicles (e.g. agricultural equipment, trailers, boats, and recreational vehicles) owned by the on-site resident for personal use.
- h. Home occupations (permit required, see Section 18-45(c)).
- i. Parking incidental to the above uses.

(3) *Uses by review.* The following uses are allowed in the H zone only upon the approval of a site development plan by the Commission:

- a. Non-profit museums,
 - b. Public and governmental buildings,
 - c. *Group homes*.
 1. The maximum capacity to house on the premises shall be no more than five patients.
 2. The applicant must provide a traffic engineering analysis showing to the satisfaction of the Village Engineer that the operation as proposed will not adversely affect the public safety either because of increased traffic or on street parking.
- (4) *Lot area*. The minimum area of each lot shall be 43,560 square feet, or as per applicable ordinances
- (5) *Lot dimensions*. Each lot shall have a lot width standard of seventy-five (75) feet. However, any lot two acres or more in size, with a minimum average width standard of less than 75 feet as of the date of the adoption of this article, may be subdivided into lots having the same width as the lot being subdivided, provided that this authority shall not be construed to permit violation of other Village minimum size restrictions.
- (6) *Lot coverage*. Lot coverage shall not exceed thirty-five (35) percent.
- (7) *Setback requirements*. Front setbacks shall be no less than twenty-five (25) feet. Other setbacks shall be no less than ten (10) feet.
- (8) *Landscaping requirements*. Landscaping shall be compatible with a rural historic area. Perimeter fences may be constructed of post and wire, barbed wire, wood rail, adobe, pale, jacal, or coyote/latilla fencing. Unstuccoed block walls are not allowed. Stucco coating, if used, shall consist of stucco over wire and paper lath.
- (9) *Architectural requirements*. No alteration, remodeling, erection, or destruction of the exterior features of buildings and other structures within this zone, subject to public view from any public street, way or other public place, shall be permitted without the approval and issuance of a development review permit by the Commission.
- a. *Overall appearance*. The exterior appearance of the structure shall express the characteristics of architecture of the Territorial, Spanish Pueblo and Southwest Vernacular style.
 - b. *Material*. Stucco, adobe, slump block and stone are allowed. Materials such as aluminum siding, metal panels, mirrored glass and unstuccoed masonry units, or cement are not allowed.
 - c. *Siting*. The placement of the structure on the property shall relate to the placement of other structures in the surrounding neighborhood.
 - d. *Bulk, height, color*. The bulk, height and color of the structure shall relate to the bulk, height and color of other structures in the surrounding neighborhood.
- (10) *Placement of parking*.
- a. Parking areas shall be placed off the street to the rear and sides of buildings whenever possible.

- b. All parking for properties subject to *Uses by Review* shall be clearly defined by landscaping, walls, and/or fences.

- (11) *Variance for Historic Preservation.* In order to preserve and protect historic buildings, the historic character and development patterns, and traditional building methods and materials, any person seeking renovation or reuse of a building fifty (50) years old or older or a structure made of adobe or terrón in the H zone may apply for a preservation incentive variance pursuant to Section 18-48(k).

History: Ord. No. 192, § 8-1-11, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 06-16, adopted 11-28-06; Ord. No. 09-005, adopted 5-19-09; Ord. No. 12-006, adopted 3-27-12.

Section 18-36. O - Professional office zone.

The following regulations shall apply to the O - Professional office zone.

- (1) *Purpose and intent.* The purpose of this zone is to recognize and provide for professional office use zoning within the Village and to establish controls and guidelines for development within this zone.
- (2) *Permissive uses.* The following permissive uses are professional offices and shall be allowed in this zone upon the approval of a site development plan and the issuance of a development review permit by the Commission.
 - a. Accounting, finance and insurance.
 - b. Architecture and landscape architecture.
 - c. Dentistry.
 - d. Engineering.
 - e. Land planning and surveying.
 - f. Law.
 - g. Medicine, acupuncture, chiropractic.
 - h. Real estate and title companies.
 - i. Veterinary medicine.
- (3) *Uses by review.* The following uses are allowed in the O zone only upon the approval of a site development plan by the Commission:
 - a. Group Homes with a maximum capacity to house on the premises no more than five patients.
 - b. The applicant must provide a traffic engineering analysis showing to the satisfaction of the Village Engineer that the operation as proposed will not adversely affect the public safety either because of increased traffic or on street parking.
- (4) *Lot area.* The minimum area of each lot shall be 43,560 square feet, or as per applicable ordinances.
- (5) *Lot dimensions.* Each lot shall have a minimum average width of seventy-five (75) feet.
- (6) *Lot Coverage.* Lot coverage shall not exceed thirty-five (35) percent.

- (7) *Setback requirements.* No structure shall be permitted to be constructed or placed closer than 30 feet from any residential property line, street right-of-way or access easement.
- (8) *Landscaping Requirements.* A minimum of ten (10) percent of the lot shall be landscaped area. Corner lots or double fronted lots shall provide a minimum of fifteen (15) percent of the lot as landscaped area. Landscaping or natural vegetation shall be required in accordance with the landscaping requirements as specified in Section 18-40.
- (9) *Architectural requirements.* In order to emulate existing Village architecture and construction tradition, compliance with the following architectural standards is required for all new construction and whenever the exterior appearance of buildings or structures is altered:
- a. *Overall appearance.* Exterior appearance shall express the characteristics of architecture of the Territorial, Spanish Pueblo and Southwest Vernacular style.
 - b. *Material.* Stucco, adobe, slump block and stone are allowed. Materials such as aluminum siding, metal panels, mirrored -glass and unstuccoed masonry units or cement are not allowed.
 - c. *Façades.* Building façades two stories in height shall include projecting or recessed portals, setbacks or other similar design elements at ground level and a balcony at the level of the floor of the second story. All ground level facades subject to public view and providing an entrance to a building shall be varied by inserts or projecting portals.
 - d. *Building massing.* Premises with a lot coverage of over 8,000 square feet shall be designed to appear more as an aggregation of smaller “building blocks” rather than a single large box or block.
 - e. *Roof-mounted equipment.* Roof-mounted mechanical, electrical, telephone or solar equipment shall be architecturally screened with opaque materials, for example, by raising the parapet, and shall be of a low profile to minimize the screening problems.
 - f. *Walls and fences.* Walls and fences shall be built of brick, adobe, rock, decorative concrete block, masonry, wood, wood and metal wire, pipe, wrought iron or similar materials. Walls of unstuccoed concrete block, unstuccoed concrete, or similar materials are prohibited.
- (10) *Placement of parking.* Parking areas shall be placed off the street to the rear and sides of buildings whenever possible.
- (11) *Driveway access restrictions.* All development shall provide driveways for vehicular access based on the following restrictions:
- a. For every 150 feet of roadway frontage, there shall be no more than one driveway providing ingress and egress.
 - b. No driveway shall have a width in excess of 28 feet unless other widths are required by NMDOT.
 - c. All driveway areas shall be clearly defined by landscaping, walls and/or fences.
 - d. Primary access shall be from Corrales Road, or from Don Julio Road in the Far Northwest Sector. However, the Commission may allow primary access from another street provided the applicant can demonstrate that there will be no adverse effects from noise, glare or odors,

and that the alternate access will not be contrary to public safety.

- (12) *Restrictions.* No future request for zone changes to Office Zone shall be granted outside of the Neighborhood Commercial Office District as defined in the FNWS Plan Addendum to the NWS Plan, Ordinance No. 342, dated February 12, 2002, as amended.

History: Ord. No. 192, § 8-1-12, adopted 11-13-89; Ord. 328, adopted 5-9-00; Ord. No 340, adopted 02-11-01; Ord. No.344, adopted 2-12-02; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-37. C - Neighborhood commercial zone.

The following regulations shall apply in the C - Neighborhood commercial zone:

- (1) *Purpose and intent.* To provide for the development of local business, commercial and personal service activities within the Village, two areas exist:

- a. The Corrales Road Commercial Area (CRCA) and
- b. The Neighborhood Commercial and Office District (NCOD).

All proposed development shall be integrated with existing, adjoining land uses and shall be compatible with the existing character of the surrounding area.

- (2) *Lot dimensions and location.*

- a. For the CRCA:

1. All lots shall be contiguous to Corrales Road having frontage on Corrales Road;
2. All lots shall be located on the east side of Corrales Road between East Meadowlark Lane on the south and Wagner Lane on the north, and on the west side of Corrales Road between West Meadowlark Lane on the south and Old Church Road on the north; and shall also include the lots south of and immediately adjacent to Meadowlark Lane on each side of Corrales Road
3. The depth of commercial zoning shall be limited to 350 feet from Corrales Road on each side, measured perpendicular to the right-of-way. No variance shall be allowed from this provision;
4. For any lot or portion of a lot zoned commercial prior to the date of the enactment of the ordinance from which this article derives, the maximum depth east and west of Corrales Road shall be the limits of the existing commercially zoned boundaries of the lot.

- b. For the NCOD, all lots shall be totally within the Neighborhood Commercial and Office District as defined in the Far Northwest Sector Plan Addendum to the Northwest Sector Plan, Ordinance No. 342, dated February 12, 2002, as amended.

- c. For other properties with C zoning designation granted prior to adoption of this ordinance, the maximum lot dimension shall be the limits of the existing commercially zoned boundaries of the lot.

- (3) *Permissive uses.* The following permissive uses shall be allowed in this zone upon the approval of a site development plan by the Commission:

- a. One single-family dwelling unit per lot (permit required, see Section 18-45(a)).

- b. One single-family manufactured house per lot (permit required, see Section 18-45(a)).
- c. One single-family mobile home dwelling unit per lot (permit required, see Section 18-45(a)).
- d. Raising crops.
- e. Raising and management of livestock and fowl, provided that all areas devoted to livestock and fowl shall be maintained in such a manner that:
 - 1. They discourage concentration and breeding of insects and rodents which are detrimental to human habitation.
 - 2. Livestock or fowl excrement shall be properly disposed of and, shall not be allowed to accumulate in amounts that cause unreasonable noxious odors.
 - 3. Drainage of livestock waste shall be contained on-site and controlled to avoid pollution of irrigation ditches, ground water, and drains and surrounding property.
- f. Accessory uses and structures.
- g. Sale of livestock and/or crops raised on the premises.
- h. Storage of a trailer, boat and recreational vehicle owned by the on-site resident for personal use.
- i. Home occupations (permit required, see Section 18-46(c)).
- j. Parking incidental to the above uses a. through i.,
- k. Accounting, finance and insurance.
- l. Architecture and landscape architecture.
- m. Dentistry.
- n. Engineering.
- o. Land planning and surveying.
- p. Law.
- q. Medicine, acupuncture, chiropractic.
- r. Real estate and title companies.
- s. Veterinary medicine.
- t. Art galleries and artist studios.
- u. Auto parts and supplies.
- v. Auto service stations.
- w. Bakeries (retail).
- x. Banks, credit unions and savings institutions.
- y. Bars.
- z. Beauty shops and barbershops.
- aa. Bed and breakfast establishments.

- bb. Cabinet shops.
- cc. Child care services.
- dd. Computer services, applications, and training.
- ee. Convenience stores
- ff. Craft shops.
- gg. Delicatessens.
- hh. Dog grooming and pet shops.
- ii. Event center
- jj. Store selling legal pharmaceuticals.
- kk. General and professional offices.
- ll. Grocery stores.
- mm. Greenhouses.
- nn. Hardware stores.
- oo. Health spas and indoor recreational facilities.
- pp. Liquor stores.
- qq. Municipal offices and services.
- rr. Museums.
- ss. Reception and meeting facilities.
- tt. Restaurants.
- uu. Retail stores such as but not limited to:
 - 1. Antiques.
 - 2. Bicycle shops.
 - 3. Books.
 - 4. Clothing.
 - 5. Flowers and plants.
 - 6. Furniture.
 - 7. Gifts.
 - 8. Jewelry.
 - 9. Livestock feed, tack and accessories.
 - 10. Pet shops.
 - 11. Rugs.
 - 12. Sporting goods stores.
- vv. Video rentals
- ww. Wineries producing no more than 5,500 gallons of wine per year.
- xx. Breweries producing no more than 5,000 barrels of beer (including porter, ale or stout) per year.

- (4) *Uses by review.* The following uses are allowed in the C zone district only upon the approval of a site development plan by the Commission:
- a. Group homes having a maximum capacity and occupancy of no more than eight (8) patients residing on the premises.
 - b. The applicant must provide a traffic engineering analysis showing to the satisfaction of the Village Engineer that the operation as proposed will not adversely affect the public safety either because of increased traffic or on street parking.
 - c. Supervised outpatient treatment facility:
 1. A supervised outpatient treatment facility shall provide counseling and rehabilitative therapies for patients who do not reside on the premises.
 2. At the time of application for approval as a Use by Review, the owner must demonstrate compliance with all State of New Mexico licensures for the counseling and/or therapies to be provided on the premises of the supervised outpatient treatment facility.
 3. A supervised outpatient treatment facility may not be located closer than 300 feet to an educational or recreational use (nearest lot boundary) primarily serving children.
- (5) *Lot area.* The minimum area of each lot shall be 43,560 square feet. Any lot platted within the CRCA as set forth in Subsection 18-37(2) above which was substandard prior to November 21, 1989 shall be exempted.
- (6) *Lot coverage.* Lot coverage shall not exceed thirty-five (35) percent.
- (7) *Setback requirements.* No new structure shall be permitted to be constructed or placed closer than twenty-five (25) feet to any existing residential structure on any abutting lot. Otherwise, if there are no existing residential structures, front setbacks shall be no less than twenty-five (25) feet and rear and other setbacks shall be no less than ten (10) feet.
- (8) *Landscaping requirements and pedestrian access.* A minimum of ten (10) percent of the lot shall be landscaped area, except that on corner lots or double fronted lots a minimum of fifteen (15) percent of the lot shall be landscaped area. Landscaping or natural vegetation shall be required in accordance with the landscaping requirements as specified in Section 18-40. In the CRCA, pedestrian pathways shall be required connecting the front door or other main access of the building to the parking area, to Corrales Road, and to adjacent properties fronting Corrales Road on either side. Required pedestrian pathways shall be considered part of the landscaped area. If the area of required pedestrian pathways results in a landscaped area in excess of the minimum requirements, the excess landscaped area may replace off-street parking that would otherwise be required pursuant to Section 18-39.
- (9) *Architectural requirements.* In order to emulate existing Village architecture and construction tradition, compliance with the following architectural standards is required for all new construction and whenever the exterior appearance of buildings or structures is altered:
- a. *Material.* Stucco, adobe, slump block and stone are allowed. Materials such as aluminum siding, metal panels, mirrored -lass and unstuccoed masonry units or cement are not allowed. Metal roof materials are allowed.

- b. *Façades.* Building façades two stories in height shall include projecting or recessed portals, setbacks or other similar design elements at ground level and a balcony at the level of the floor of the second story. All ground level façades subject to public view and providing an entrance to a building shall be varied by inserts or projecting portals.
- c. *Building massing.* Premises with a lot coverage of over 5,000 square feet shall be designed to appear more as an aggregation of smaller “building blocks” rather than a single large box or block.
- d. *Roof-mounted equipment.* Roof-mounted mechanical, electrical, telephone or solar equipment shall be architecturally screened with opaque materials, for example, by raising the parapet, and shall be of a low profile to minimize the screening problems.
- e. *Walls and fences.* No solid fence exceeding three (3) feet in height shall be erected on the front lot line or within the front setback area of any lot or within the vision clearance area abutting a driveway. Walls and fences shall be built of brick, adobe, rock, decorative concrete block, masonry, wood, wood and metal wire, pipe, wrought iron or similar materials. Walls of unstuccoed concrete block, unstuccoed concrete, or similar materials are prohibited.

(10) *Placement of parking.*

- a. Parking areas shall be placed off the street to the rear and sides of buildings whenever possible.
- b. All development within the CRCA shall provide driveways for vehicular access based on the following restrictions:
 - 1. Primary access shall be from Corrales Road. However, the Commission may allow primary access from another street provided the applicant can demonstrate there will be no adverse effects from noise, glare or odors, and that the alternate access will not be contrary to public safety;
 - 2. For every 150 feet of frontage on Corrales Road, there shall be no more than one driveway providing ingress and egress;
 - 3. No driveway shall have width in excess of 28 feet; and
 - 4. All driveway areas shall be clearly defined by landscaping, walls, and/or fences.
- c. All development within the NCOD zone area shall provide driveways for vehicular access based on the following restrictions:
 - 1. Primary access shall be from Don Julio Road. However, the Commission may allow primary access from another street provided the applicant can demonstrate there will be no adverse effects from noise, glare or odors, and that the alternate access will not be contrary to public safety;
 - 2. For every 150 feet of frontage on Don Julio Road, there shall be no more than one driveway providing ingress and egress;
 - 3. No driveway shall have width in excess of 28 feet; and
 - 4. All driveway areas shall be clearly defined by landscaping, walls, and/or fences.

- d. All other commercial zoning shall provide driveways for vehicular access based on the following restrictions:
 1. For every 150 feet of frontage, there shall be no more than one driveway providing ingress and egress;
 2. No driveway shall have width in excess of 28 feet;
 3. All driveway areas shall be clearly defined by landscaping, walls, and/or fences

(11) *Permit required for demolition of structures over 50 years old in the Corrales Road Commercial Area.* No building or structure, any portion of which is over fifty (50) years old and which is located on land within the Corrales Road Commercial Area, as defined in Section 18-37(2), shall be demolished except in strict accordance with a permit issued under Section 18-45(e).

(12) *Variance for Historic Preservation.* In order to preserve and protect historic buildings, the historic character and development patterns, and traditional building methods and materials, any person seeking renovation or reuse of a building fifty (50) years old or older or a structure made of adobe or terrón in the Corrales Road Historic Area may apply for a preservation incentive variance pursuant to Section 18-48(k).

History: Ord. No. 192, § 8-1-13, adopted 11-13-89; Ord. No. 284, adopted 10-10-95; Ord. No. 292, adopted 7-9-96, Ord. No. 344, § 18-37-5(a), adopted 2-12-02; Ord. No. 06-02, adopted 5-23-06; Ord. 06-15, adopted 9-26-06; Ord. No. 07-016, adopted 11-13-07; Ord. No. 09-005, adopted 5-19-09; Ord. No. 10-004, adopted 6-22-10; Ord. No. 12-003, adopted 2-14-12; Ord. No. 12-006, adopted 3-27-12.

Section 18-38. M - Municipal, public and quasi-public zone.

The following regulations shall apply in the M - Municipal, public and quasi-public zone:

- (1) *Purpose and intent.* The purpose of this zone is to allow for community and public uses commonly found in a rural area.
- (2) *Permissive uses:* The following permissive uses shall be allowed in the M zone upon the approval of a site development plan and issuance of a development review permit by the Commission, except that submittal or approval of a site development plan and issuance of a development review permit shall not be required for a growers' market.
 - a. Public parks and playgrounds.
 - b. Governmental buildings of the Village.
 - c. Public libraries
 - d. Growers' markets, provided that the organizers and operators of the growers' market shall annually submit an application to the Administrator describing the location of the proposed growers' market and its days and hours of operation, with such other information as the Administrator may reasonably require, and shall receive from the Administrator a permit authorizing the conduct of the grower's market in accordance with the application, unless there appears good cause why the application should not be approved.
 - e. Incidental retail sales, residential uses, and other activities associated with permissive uses listed in a. through c. above.

- (3) *Uses by review.* The following uses shall be allowed in the M zone only upon the approval of a special use permit for the designated use, approval of a site development plan and issuance of a development review permit by the Commission:
- a. Private parks and playgrounds.
 - b. Schools, public and private.
 - c. Museums, public and private.
 - d. Governmental buildings of governmental units other than the Village.
 - e. Churches and church related structures.
 - f. Community utility and service installations.
 - g. Senior living facilities;
 1. Purpose: The purpose of this Subsection 18-38(3)(g) is to provide standards for the development of senior living facilities in a manner that recognizes and provides reasonable accommodation for the varied housing needs and desires of seniors, and ensures that senior living facilities are so located and constructed within the Village as to be compatible with surrounding properties, to not impose an undue financial or administrative burden upon the Village, and to not fundamentally undermine the Village's zoning plan.
 2. Density and lot size: The allowed number of residents per acre shall be reasonably compatible with the density of the surrounding properties, not to exceed more than one resident per 5,445 square feet subject to compatibility with surrounding properties and compliance with all dimensional, design, parking, landscaping and other Village development standards. No senior living facility shall be permitted on a lot or contiguous lots having a total area of less than 15 acres.
 3. Landscaping requirement: A minimum of twenty percent of the lot shall be landscaped area. The landscaping requirements for nonresidential development in Section 18-40 apply to senior living facilities.
 4. Placement of parking: Parking areas shall be placed off the street to the rear and sides of buildings whenever possible.
 5. Traffic: The applicant must provide a traffic engineering analysis showing to the satisfaction of the Village engineer that the operation as proposed will not adversely affect public safety or quality of life of the neighborhood.
 - h. Incidental retail sales, residential uses, and other activities associated with approved uses by review listed in a. through g. above.
- (4) *Lot area.* The minimum area of each lot shall be 43,560 square feet, or as per applicable ordinances.
- (5) *Lot dimensions.* Each lot shall have a minimum average width of seventy-five (75) feet.
- (6) *Lot coverage.* Lot coverage shall not exceed thirty-five (35) percent.

- (7) *Setback requirements.* No new structure shall be permitted to be constructed or placed closer than twenty-five (25) feet to any existing residential structure. Otherwise, if there are no existing residential structures, front setbacks shall be no less than twenty-five (25) feet and rear and side setbacks shall be no less than ten (10) feet.
- (8) *Landscaping requirements.* A minimum of ten (10) percent of the lot shall be landscaped area. Corner lots or double fronted lots shall provide a minimum of fifteen (15) percent of the lot as landscaped area. Landscaping or natural vegetation shall be required in accordance with the landscaping requirements as specified in Subsection 18-40(b).
- (9) *Architectural requirements.* In order to emulate existing Village architecture and construction tradition, compliance with the following architectural standards is required for all new construction and whenever the exterior appearance of buildings or structures are altered:
- a. *Overall appearance.* Exterior appearance shall express the characteristics of architecture of the Territorial, Spanish Pueblo and Southwest Vernacular style.
 - b. *Material.* Stucco, adobe, slump block and stone are allowed. Materials such as aluminum siding, metal panels, mirrored glass and unstuccoed masonry units or cement are not allowed.
 - c. *Façades.* Building façades two stories in height shall include projecting or recessed portals, setbacks or other similar design elements at around level and a balcony at the level of the floor of the second story. All ground level façades subject to public view and providing an entrance to a building shall be varied by inserts or projecting portals.
 - d. *Building massing.* Premises with a lot coverage of over 8,000 square feet shall be designed to appear more as an aggregation of smaller “building blocks” rather than a single large box or block.
 - e. *Roof-mounted equipment.* Roof-mounted mechanical, electrical, telephone or solar equipment shall be architecturally screened with opaque materials, for example, by raising the parapet, and shall be of a low profile to minimize the screening problems.
 - f. *Walls and fences.* Walls and fences shall be built of brick, adobe, rock, decorative concrete block, masonry, wood, wood and metal wire, pipe, wrought iron or similar materials. Walls of unstuccoed concrete block, unstuccoed concrete, or similar materials are prohibited.
- (10) *Placement of parking.* Parking areas shall be placed off the street to the rear and sides of buildings whenever possible.

History: Ord. No. 192, § 8-1-14, adopted 1-13-89; Ord. No. 270, adopted 11-8-94; Ord. No. 376, adopted 2-24-04; Ord. No. 06-02, adopted 5-23-06; Ord. No. 08-007, adopted 8-26-08; Ord. No. 09-003, adopted 4-14-09; Ord. No. 09-005, adopted 5-19-09; Ord. No. 10-008, adopted 9-28-10.

Section 18-39. Off-street parking requirements.

(a) *Parking for the physically disabled.* Parking spaces for vehicles with valid distinctive registration plates for the physically disabled shall be located and provided as required by the “American with Disabilities Act” 28 CFR Part 36 and a distinct parking placard NMSA 1978, § 66-3-16.

(b) *Size of parking spaces.* All parking spaces required by this article shall be of a minimum area of 180 square feet and shall not be less than nine (9) feet in width by twenty (20) feet in length.

(c) *Nonresidentially developed properties.* Nonresidentially developed properties shall provide

parking spaces as follows:

- (1) *Churches or other places of worship.* One parking space per every six seats in the main room (each 30 inches of pew space is considered one seat).
- (2) *Bars and restaurant.* One parking space per every 4 chairs or seating places for restaurants. One parking space per every 150 square feet of heated floor area for bars.
- (3) *Bed and breakfast establishments.* One and one-half parking spaces per every guestroom.
- (4) *Retail, office and service use.* One parking space per every 300 square feet of heated floor area.
- (5) *Schools.* One and one-half parking spaces per every faculty or staff member.
- (6) *Senior living facilities.* One and one-half parking spaces per dwelling unit for independent living and one parking space per two beds for assisted living and skilled nursing. The parking requirements for senior living facilities may be reduced if justification can be provided.

History: Ord. No. 192, § 8-1-15, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-003, adopted 4-14-09; Ord. No. 09-005, adopted 5-19-09; Ord. No. 10-008, adopted 9-28-10.

Section 18-40. Landscaping requirements.

(a) *Intent.* All landscaping required by this article shall be of a type and located in a manner, which mitigates the impact of nonresidential development upon the existing residential and agricultural character of the Village.

(b) *Landscaping minimums.* Landscaping of nonresidential development, in addition to natural vegetation, provided to meet the requirements of this article shall be provided in the following minimum numbers, sizes and growth capabilities:

- (1) Trees.
 - a. There shall be a minimum of one shade tree, fruit tree or ornamental tree planted for each 1,000 square feet of required landscaped area. Existing trees at least twelve (12) feet in height, except Siberian elm trees (*Ulmus parvifolia*), Russian olive (*Eleagnus angustifolia*) and tamarisk or salt cedars (*Tamarix ramosissima*, *Tamarix parviflora*, *Tamarix chinensis*), may be used to meet this requirement in whole or in part.
 - b. Shade trees, fruit trees or ornamental trees shall be at least 1-½ inches in caliper measured at the trunk two (2) feet above grade, or the tree shall be at least ten (10) feet in height at the time of planting.
 - c. Siberian elm trees (*Ulmus parvifolia*), Russian olive (*Eleagnus angustifolia*) and tamarisk or salt cedars (*Tamarix ramosissima*, *Tamarix parviflora*, *Tamarix chinensis*) are not allowed to be planted to meet the requirements of this section.
 - d. To the extent feasible, existing trees of species native to the Corrales area should be retained and incorporated into the landscape plans.
 - e. Any tree identified as a Landmark Tree or as a Nominated Tree under Chapter 14, Article V shall be shown on landscape plans.
- (2) *Ground cover.* Ground cover shall be planted to provide general ground coverage within one

growing season after planting. Xeriscaping or usage of low water plants and/or native plants is encouraged.

- (3) *Shrubs and bushes.* Shrubs and bushes shall be at least five-gallon or larger container sizes.

(c) *Installation and maintenance.*

- (1) Landscaping of nonresidential development shall be installed according to plans approved by the Planning and Zoning Commission and shall be completed within one calendar year after issuance of a certificate of occupancy.

- (2) Any damage to utility lines resulting from the negligence of the landowner, his agents or employees in the installation and maintenance of the landscaped treatment shall be the responsibility of such landowner.

- (3) Landscaping shall have adequate maintenance.

- (4) Landscaping required by this article which dies shall be replaced by the property owner as expeditiously as possible, but in no case longer than three months after notification by the Administrator.

(d) *Buffer landscaping.*

- (1) Where a property to be developed for a nonresidential purpose abuts a residential property, special buffer landscaping is required on the nonresidentially developed property to minimize noise and sight impacts of the nonresidential activities upon the residential property.

- (2) Where the side or rear property lines of a nonresidential development are contiguous to a residential property, a fence, wall, or hedge a minimum of six feet in height and a five-foot wide area with landscaping inside the property boundary shall be provided to shield the residential property from the nonresidential development. Municipal zoned properties are exempt from the requirement for a solid fence or wall around the perimeter of the property, and for such properties the Commission in its discretion may approve alternative buffering or may require no buffering.

- (3) The Planning and Zoning Commission as a condition of approval of a site plan may approve alternate buffers to the landscaping, if the noise and sight buffering can be accomplished at least as well with the alternate plan.

(e) *Xeriscaping of newly constructed dwelling units:*

- (1) Landscaped areas of newly constructed dwelling units shall be xeriscaped. Not more than twenty (20) percent of the landscaped area of newly constructed dwelling units shall be dedicated to cold-weather grasses such as blue grass and fescue, unless such grasses are raised for and dedicated to the purpose of consumption by animals.

- (2) For any newly constructed dwelling unit on a lot with a total area less than two and one half (2 ½) acres, the requirements of Paragraph 18-40(e)(1) shall apply to the entire landscaped area of the lot. For any new home constructed on a lot with a total area greater than two and one half (2 ½) acres, the requirements of Paragraph 18-40(e)(1) shall apply to the area immediately surrounding the home, including any area disturbed during the construction thereof, but the area on which xeriscaping is required shall not in any event exceed two and one half (2 ½) acres.

- (3) The xeriscaping requirements set forth in this Subsection 18-40(e) do not apply to areas that have

been used historically for the cultivation of crops, and that continue to be so used despite the construction of a home on a portion of the lot or lots containing such cultivated areas, nor do they apply to those undisturbed areas of any lot or parcel of land which retain their natural vegetation.

- (4) The xeriscaping requirements set forth in this Subsection 18-40(e) shall apply to any landscaping of a newly constructed dwelling unit, but shall not be construed to require such landscaping unless otherwise mandated by Village ordinance or other law.
- (5) Landscaping found to be in violation of the xeriscaping requirements of this Subsection 18-40(e) shall be modified by the property owner within six (6) months so as to conform to the Xeriscaping requirements. Each failure of the property owner, after notice by the Village, to modify the landscaping within six (6) months thereafter so as to conform to the xeriscaping requirements, shall be deemed a separate violation of this section.

History: Ord. No. 192, § 8-1-16, adopted 11-13-89; Ord. No. 372, adopted 10-28-03; Ord. No. 06-02, adopted 5-23-06; Ord. No. 06-16, adopted 11-28-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-41. Service area requirements.

All transformer boxes, garbage enclosures, and loading areas on nonresidentially developed properties shall be screened from roads/streets and properties by fences or walls compatible with the design of the primary structure.

History: Ord. No. 192, § 8-1-17, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-42 Exterior Lighting.

(a) *Intent.* The purpose of this section is the regulation of outdoor lighting to reduce or prevent light pollution to maximize the preservation of the agricultural and rural heritage of the Village. The intention of regulating outdoor lighting is to reduce or prevent glare, light trespass, conserve energy and promote safety and security. The illustrations contained in this section are intended to help the public understand acceptable and unacceptable exterior lighting in the Village of Corrales.

(b) *Applicability.*

- (1) All non-conforming outdoor fixtures installed prior to and operable on the effective date of this Ordinance shall be removed or converted to a conforming fixture when the existing fixture is inoperable or un-repairable. The Village may require a non-conforming use to be corrected if the Village determines that the non-conforming use is creating a nuisance glare or disabling glare as defined in Section 18-29.
- (2) All existing outdoor lighting fixtures owned and maintained by any public utility company within the Village are required to be removed or comply with the "Night Sky Protection Act", NMSA 1978, Section 74-12-1 et.seq. and this Section 18-42 within 12 months from the enactment of this section.
- (3) This section does not apply to interior lighting.
- (4) All new installations and modification to existing non-conforming fixtures shall comply with this section.
- (5) Compliance with this section shall be administered and enforced by the Village of Corrales Planning and Zoning Administrator or designated Village personnel.

- (6) In the event of a conflict with any other section of this article, the more stringent requirement shall apply.
- (7) All exterior lighting must comply with the New Mexico “Night Sky Protection Act”, NMSA 1978, Section 74-12-1 et.seq.
- (c) *Exemptions.* The following are exempt from the provisions of this section:
- (1) Traffic control signals and devices.
 - (2) Street lights installed prior to the effective date of this section.
 - (3) Temporary emergency lighting (i.e., fire, police, repair workers).
 - (4) Moving vehicle lights.
 - (5) Navigation lights (i.e., communications towers).
 - (6) Seasonal decorations with light displays in place no longer than one month before a holiday nor ten (10) days after a holiday.
 - (7) Special situations approved by the Village of Corrales for temporary or periodic events (i.e., fairs, fiestas, emergencies, or Village-sanctioned night-time construction).
 - (8) Covered porch lighting on single-family or multi-family homes provided that each outdoor light fixture does not exceed 2600 lumens output (150 watts incandescent). See Table 1 for lumen conversions.

| Watts | Lumens (brightness) |
|-------|---------------------|
| 150 w | 2600 lm |
| 100 w | 1600 lm |
| 75 w | 1100 lm |
| 60 w | 800 lm |
| 40 w | 450 lm |

Table 1.
Watts/Lumens Conversion. Estimates based on typical incandescent bulbs. Reference Standards for Lumens, 2012.

- (9) Security lights of any power that are controlled by a motion-sensor switch and which do not remain on longer than 30 minutes after activation.
- (10) Outdoor lighting fixtures necessary for safety at schools, fire stations, farms, dairies, ranches, feedlots, or oil and gas facilities.
- (11) Existing sport field outdoor sites.
- (12) Flagpoles that display the United States flag after sundown.
- (13) Any person or business may submit an application for a variance from the requirements of this section to the Planning and Zoning Commission. The request shall state fully:

- a. The circumstances and conditions relied upon as grounds for an exemption;
- b. The circumstances and conditions by which strict application of the provisions deprive the applicant of reasonable use of the land, building or outdoor light fixtures; and,
- c. The grounds by which the granting of the administrative exemption will not be injurious to the neighborhood or otherwise detrimental to the public, health, safety or welfare.

(d) *Submittals.*

(1) Applications for building permits shall be submitted to the Village Planning and Zoning Department. If the application includes installation of outdoor lighting fixtures, evidence of compliance with the requirements of this Section 18-42 shall be provided. The applicant shall provide the following:

- a. Plans indicating the location, type, and height of luminaires including both building and ground-mounted fixtures;
- b. Description of luminaires, including lamps, poles or other supports, and shielding devices;
- c. Ganging of individual luminaries to achieve more than allowed lumens in a specific area is prohibited;
- d. Photometric data, showing downward angle of light emission;
- e. Additional information may be required by the Planning and Zoning Department in order to determine compliance with this section.

(2) Requests for any lighting deviation or variance from the requirements of this Section 18-42 are to be submitted in writing to the Planning and Zoning Commission. It shall be approved only when it is determined that a deviation or variance is warranted in order to provide even more security for personal property, business inventory, agricultural activities or special events.

(e) *General Standards.* The following general standards shall apply to all outdoor lighting installed after the effective date of Ordinance 192, adopted 11-13-89, which are not covered under Subsection 18-42(c) *Exemptions*, above:

- (1) Outdoor light must be hooded, shielded and aimed downward. Examples of acceptable and unacceptable light shielding and hooding are shown in Table 2. [*See* following pages.]
- (2) The hood or shield must mask the direct horizontal surface of the light source. The light must be aimed to ensure the illumination is only pointing downward onto the ground surface, with no upward escaping light permitted to contribute to light pollution.
- (3) Existing fixtures may be adapted to comply with this section by adding a properly designed hood or shield, or by pointing any upward-mounted, shielded fixture downward toward the ground surface.
- (4) Any light falling onto adjacent property or streets that results in nuisance glare or disabling glare shall not be permitted. Light trespass beyond property boundaries or above the horizontal plan shall be considered non-compliant.

Table 2
Examples of Acceptable and Unacceptable Exterior Lighting Fixtures

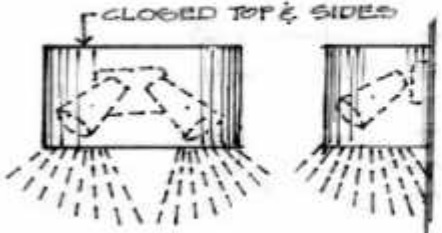
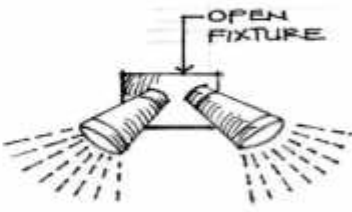
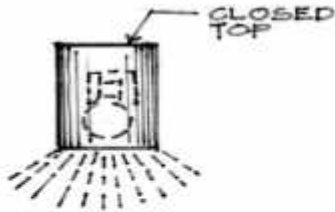

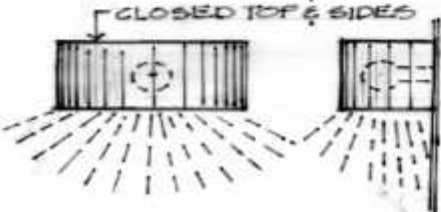
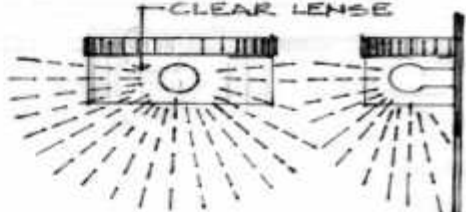
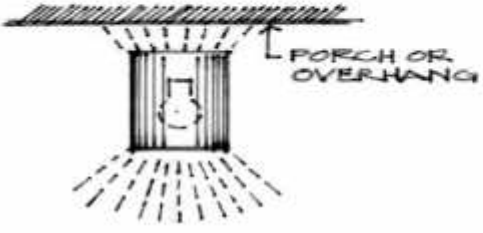
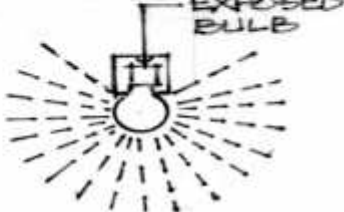
| Examples of Acceptable Lighting Configurations | Examples of Unacceptable Lighting Configurations |
|--|--|
| Wall-mounted fixtures control upward and horizontal glare | Wall-mounted fixtures with inadequate shielding |
|  <p>CLOSED TOP & SIDES</p> <p>This diagram shows two wall-mounted lighting fixtures. The left fixture is a rectangular box with a bulb inside, and the right fixture is a cylindrical tube with a bulb inside. Both have their tops and sides closed, and their light beams are directed downwards, away from the wall and upwards.</p> |  <p>OPEN FIXTURE</p> <p>This diagram shows a wall-mounted lighting fixture with an open top. The bulb is exposed, and light rays are shown emanating upwards and horizontally from the fixture, indicating glare.</p> |
|  <p>CLOSED TOP</p> <p>This diagram shows a wall-mounted lighting fixture with a closed top. The bulb is inside a cylindrical housing, and light rays are directed downwards, preventing upward glare.</p> |  <p>OPEN TOP</p> <p>This diagram shows a wall-mounted lighting fixture with an open top. The bulb is exposed, and light rays are shown emanating upwards from the fixture, indicating glare.</p> |
|  <p>CLOSED TOP & SIDES</p> <p>This diagram shows two wall-mounted lighting fixtures. The left fixture is a rectangular box with a bulb inside, and the right fixture is a cylindrical tube with a bulb inside. Both have their tops and sides closed, and their light beams are directed downwards.</p> |  <p>CLEAR LENS</p> <p>This diagram shows two wall-mounted lighting fixtures with clear lenses. The light rays are shown passing through the lenses and emanating horizontally and upwards from the fixtures, indicating glare.</p> |
|  <p>PORCH OR OVERHANG</p> <p>This diagram shows a wall-mounted lighting fixture with a bulb inside. The fixture is mounted under a horizontal overhang, which shields the fixture from emitting light upwards.</p> |  <p>EXPOSED BULB</p> <p>This diagram shows a wall-mounted lighting fixture with an exposed bulb. The bulb is not shielded, and light rays are shown emanating upwards and horizontally from the fixture, indicating glare.</p> |

Table 2 (continued)

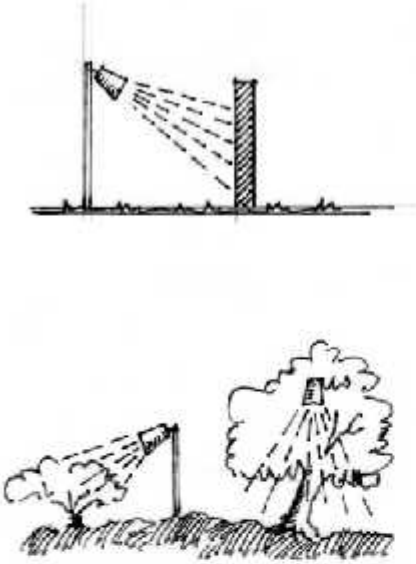
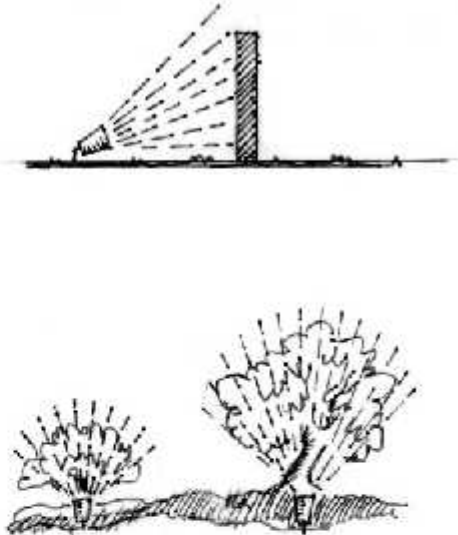
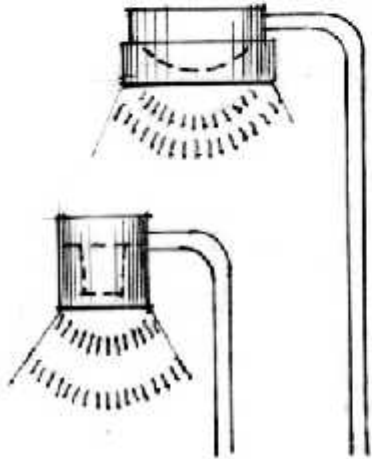
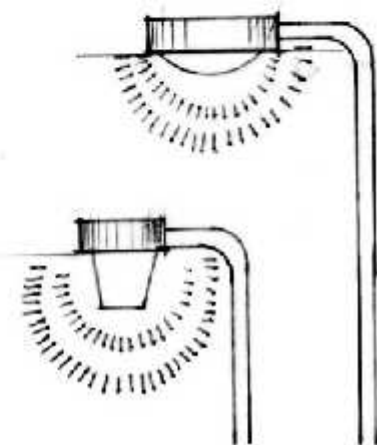
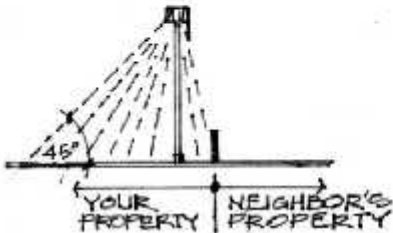
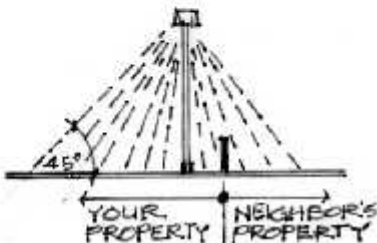
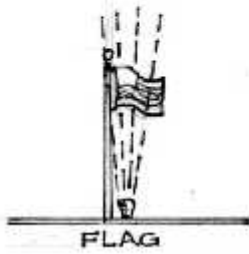
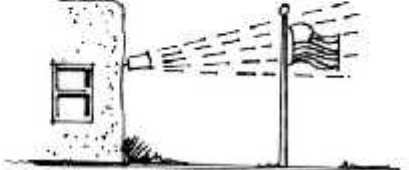
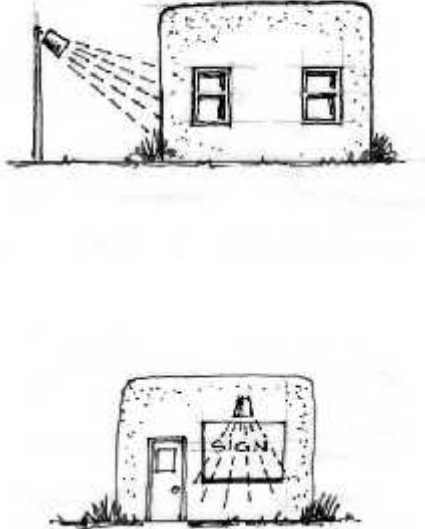
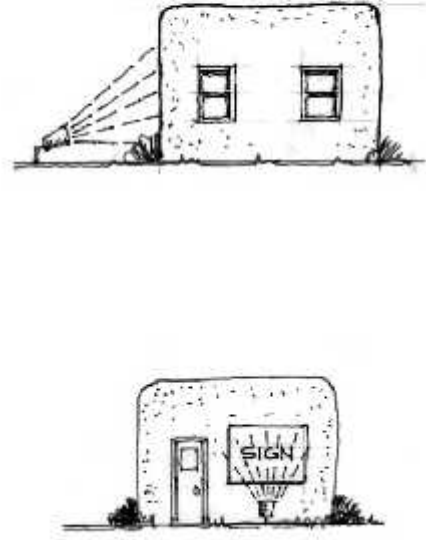
| Examples of Acceptable Lighting Configurations | Examples of Unacceptable Lighting Configurations |
|--|---|
| <p data-bbox="224 327 662 359">Landscape lighting points downward.</p>  | <p data-bbox="776 327 1321 359">Landscape lighting points upward; stray light.</p>  |
| <p data-bbox="224 1079 748 1142">Light poles illuminate downward and have a height maximum of 15'.</p>  | <p data-bbox="776 1079 1344 1142">Light poles illuminate downward and outward from the horizontal plane.</p>  |

Table 2 (continued)

| <p>Examples of Acceptable Lighting Configurations</p> | <p>Examples of Unacceptable Lighting Configurations</p> |
|--|---|
| <p>Control of light trespass on adjacent property.</p>  <p>A diagram showing a light fixture on a property line. A 45-degree beam spread is shown, with dashed lines indicating the light rays. The beam is directed downwards and is contained within the area labeled 'YOUR PROPERTY', with a vertical line separating it from 'NEIGHBOR'S PROPERTY'.</p> | <p>No control of light trespass onto adjacent property.</p>  <p>A diagram showing a light fixture on a property line. A 45-degree beam spread is shown, with dashed lines indicating the light rays. The beam extends across the property line into the area labeled 'NEIGHBOR'S PROPERTY'.</p> |
| <p>American Flag Pole lighting: Narrow focus.</p>  <p>A diagram of a flagpole with an American flag. A narrow beam of light is directed downwards from the top of the pole, focused precisely on the flag. The word 'FLAG' is written below the pole.</p> | <p>American Flag Pole unacceptable lighting.</p>  <p>A diagram showing a flagpole with an American flag. A wide beam of light is directed from the top of the pole, illuminating a nearby building with a window.</p> |
| <p>Examples of Acceptable Lighting Configurations</p> | <p>Examples of Unacceptable Lighting Configurations</p> |
| <p>Accent lighting is directed downward toward wall or object.</p>  <p>Two diagrams illustrating acceptable accent lighting. The top diagram shows a light fixture on a wall with a beam directed downwards towards the building's facade. The bottom diagram shows a light fixture mounted above a sign, with a beam directed downwards onto the sign.</p> | <p>Accent lighting is unacceptable directed upward or onto adjacent property.</p>  <p>Two diagrams illustrating unacceptable accent lighting. The top diagram shows a light fixture on a wall with a beam directed upwards. The bottom diagram shows a light fixture on a wall with a beam directed towards an adjacent building.</p> |

- (5) Any outdoor lighting fixtures shall be designed, installed, located and maintained such that glare onto other properties or streets shall be eliminated and all direct illumination kept within the boundaries of the fixture owner's property.
- (6) Accent lighting shall be directed downward onto the building or object and not toward the sky or onto adjacent properties. Direct light emissions shall not be visible above the roofline or beyond the building edge.
- (7) Spot lighting on landscaping, foliage, and flagpoles shall be limited to 2600 lumens output (150 watt incandescent). The lamp shall be shielded and not create disabling or nuisance glare.
- (8) Rotating, flashing, moving or stationary beacons of light used for advertising purposes or public events are prohibited.
- (9) Exterior light fixtures shall be limited to fifteen (15) feet in height from grade.
- (10) Where exterior lighting is used for security purposes or to illuminate walkways, entrances, driveways, equipment yards and parking lots outdoor shielded lights shall be used.
- (11) This section shall be enforced on the basis of a formal complaint in writing with the Planning and Zoning Department.

(f) *Enforcement and Penalties for Violation.* This section shall be enforced when the Planning and Zoning Administrator or Village-designated code enforcement officer determines a violation has occurred or when any citizen makes a complaint in writing to the Village and investigation by the Village determines that there is a violation of this section. The Planning and Zoning Administrator or Village-designated code enforcement officer will contact the owner, tenant, agent, or person in charge of the premises where the violation has occurred and notify them of the violation in writing.

History: Ord. No. 192, § 8-1-18, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09; Ord. No. 13-003, adopted 3-26-13.

Section 18-43. Signs and outdoor advertising devices.

All signs and outdoor advertising shall conform to Chapter 8, Article IV of this Code.

History: Ord. No. 192, § 8-1-19, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09. Cross reference: Signs, § 8-91 et seq.

Section 18-44. Areas subject to flooding.

All buildings or structures erected or improvements constructed upon, or mobile homes moved onto or installed upon, any lot within the Village shall conform to Chapter 18, Article IV of this Code. All new construction located within the flood zones as determined by the current Federal Emergency Management Agency Flood Insurance Rate Map shall have an elevation certificate attached to the building permit prior to commencement of construction.

History: Ord. No. 192, § 8-1-20, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09. Cross reference: Flood damage prevention, § 18-116 et seq.; Terrains and storm water management, § 18-160 et seq.

Section 18-45. Permits, certificates and plan approval.

(a) Development review permit.

- (1) *Approval and permit required.* No building or structure which requires Village of Corrales plan approval shall be constructed upon, nor shall any manufactured home or mobile home be moved

upon or installed upon, any lot within the Village without the issuance of a development review permit by the Village building inspector as required by this article.

(2) *Application and fee.* Anyone wanting to erect a building or structure, construct improvements, or move a manufactured home or mobile home upon any lot within the Village must obtain and submit a completed application for a development review permit. The application shall be returned to the Administrator or Village building inspector accompanied by the appropriate application fee and number of sets of required drawings for review and approval under Section 8-37. Mobile home installation permits shall be submitted to the Administrator or Village building inspector upon issuance.

(3) *Review process.* The Village building inspector shall determine if the proposed construction of a building or structure, proposed site development improvements, or the proposed installation of a manufactured or mobile home satisfies the requirements of this article and if a variance, zone change, or other permitting procedures and/or approvals are required. The inspector shall then issue the appropriate permit or notify and advise the applicant of his findings and the subsequent procedures as required by this article

(b) Site development plan approval.

(1) *Approval required.* No building, structure, or land in any zone may be occupied by a use designated as requiring site development plan approval without the approval of a site development plan by the Planning and Zoning Commission.

(2) *Applications.* Anyone requesting a use of a building, structure or land requiring site development plan approval must obtain and submit a completed application for a site development plan review. The application shall be returned to the Administrator accompanied by the appropriate application fee and fourteen (14) sets of required drawings. All site plans or site development plans must satisfy at least the following minimum requirements.

- a. Show proposed new structure(s) and any existing buildings or structures, total lot coverage, all property lines with dimensions, all roads/streets, easements and setbacks.
- b. Show all locations on-site for water, septic, sewer, refuse, electrical points of connections, proposed service routes and existing utilities on the site.
- c. Show all required parking, drainage and grading information (see Section 18-39).
- d. Show required landscaping information (see Section 18-40).
- e. Indicated drainage inflow and outflow locations and specify areas required to be maintained for drainage purposes.
- f. Include a topographic survey if requested by the Administrator.
- g. Show all structures on adjacent properties located within twenty-five (25) feet of the site.
- h. Identify the zone designations of adjacent properties.
- i. Additional information necessary to demonstrate compliance with the requirements for the article as determined by the Administrator.
- j. Show north arrow and scale on all drawings, unless clearly unnecessary for the specific

drawing in question.

- (3) *Review process.* The Administrator shall schedule a hearing before the Commission no later than sixty (60) days following the submittal of a completed application as determined by the Planning and Zoning Administrator.
- (4) *Meeting with Planning and Zoning Administrator.* Prior to submitting an application, the applicant shall first schedule a meeting with the Administrator. Review and comments shall be given to the applicant at this time, concerning the relationship of the proposed development to the Village Comprehensive Plan and the applicable zoning ordinances, along with copies of the pertinent sections of this article, applications and other submittal requirements.
- (5) *Guidelines.* The Planning and Zoning Commission shall not approve any site development plan unless all the requirements of this article are met. The Commission may, in its discretion, grant conditional approval of a proposed site development plan subject to satisfactory completion of certain specified requirements prior to a date certain, and may delegate to the Administrator, the chairman of the Commission, or other specifically designated individual the authority to determine whether such requirements have been satisfactorily completed. In addition, no site development plan shall be approved unless satisfactory provisions have been made concerning the following, where applicable:
 - a. Accessibility to property and proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, streets/roads, and emergency access in case of fire, flood or catastrophe.
 - b. Off-street parking and loading areas where required, with particular attention to the refuse and service areas (see Subsection 18-37(10)).
 - c. Show all on-site locations for water, septic, sewer and liquid waste facilities, with reference to soil limitations, locations, and public health.
 - d. On-site drainage and storm water runoff.
 - e. The noise, glare, or odor effects of the proposed use on adjoining properties.
 - f. General compatibility with existing adjacent properties.
 - g. The overall health and safety of the community.
 - h. The goals and objectives of the Village of Corrales Comprehensive Plan.
- (6) *Additional requirements.* Any change in use which would require additional parking and/or any alteration or addition to the site of any structure upon the site shall require the resubmittal of an application and approval as required by this section.
- (7) *Completeness of plan.* No site development plan shall be approved unless the submitted plan as presented is complete, or any deficiencies have been fully corrected to the satisfaction of the Commission, or other appropriate authority specifically designated by the Commission.
- (8) Any site development plan approval will automatically expire on the date that is twenty-four (24) months after the date of Commission approval or conditional approval if development is not complete. The Commission, in its discretion, may extend this time in cases in which the project is in litigation or for any other reason that excuses the failure to complete development, provided

the extension is not contrary to the public interest. Any decision by the Commission to extend, or not extend, construction time for a site development plan may be appealed to the Governing Body.

(c) Home occupation permits.

- (1) *Approval and permit required.* No person or entity shall engage in a home business or occupation of any kind in the A-1 zone, A-2 zone or Historic zone without the issuance of a home occupation permit by the Planning and Zoning Commission. Home occupation includes, but is not limited to, the design, preparation, production, or distribution of goods and/or services.
- (2) *Agricultural Activities Exceptions:* Agricultural activities are encouraged and are permissive uses in most zone designations in the Village. Raising and selling crops and the raising and management of livestock and fowl that is exempt from New Mexico gross receipts tax and governmental gross receipts tax under NMSA 1978, § 7-9-18 does not require a Home Occupation Permit. If all the Agricultural activities are not exempt from governmental gross receipts tax, require a Village of Corrales business license.
- (3) *Application and fee.* Anyone wanting to engage in a business or occupation must submit a completed home occupation permit application. The application shall be returned to the Administrator accompanied by the appropriate application fee.
- (4) *Review process.* The Administrator shall schedule a hearing on the application before the Planning and Zoning Commission no later than sixty (60) days following the submittal of a completed application.
- (5) *Requirements.* The Planning and Zoning Commission shall issue approval for a home occupation permit if the Commission finds:
 - a. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by the occupants.
 - b. Not more than twenty-five (25) percent of the floor area of the dwelling unit and not more than 1,000 square feet in one accessory building shall be used for all home occupations upon the lot. For lots zoned A-1 and located in the Neighborhood Commercial and Office District (NCOD) as defined in the FNWS Plan Addendum to the NWS Plan, Ordinance 342, dated February 12, 2002, not more than forty-five (45) percent of the floor area of the dwelling unit or more than two thousand (2,000) square feet in an accessory building shall be used for all home occupations upon the lot.
 - c. No more than one person other than members of the family residing on the premises shall be engaged in the home occupation at any one time on the premises. For lots zoned A-1 and located in the Neighborhood Commercial and Office District (NCOD) as defined in the FNWS Plan Addendum to the NWS Plan, Ordinance No. 342, dated February 12, 2002, no more than 3 persons other than members of the family residing on the premises shall be engaged in the home occupation at any one time on the premises.
 - d. There shall be no change in the exterior appearance of the buildings or premises, or any visible evidence of the conduct of a home occupation other than:
 1. Activities normally associated with a permissive use of the residence, and
 2. An appropriate sign as regulated by chapter 8, Article IV of this Code.

- e. All business related tools and materials shall be maintained to have an orderly appearance.
- f. No equipment or process shall be used in the home occupation, which creates noise, vibration, glare, fumes, noxious odors, or other nuisances detectable from adjacent properties.
- g. There shall be no sales of goods or services from the home, which would generate greater traffic volume than would be created in a residential neighborhood.
- h. No more than two service vehicles used in the conduct of the home occupation shall be upon the premises at any one time.
- i. Any parking needs generated by the conduct of the home occupation shall be met by using off-street parking.
- j. Maximum of two home occupations shall be permitted on any one lot at any one time.

(6) *Additional requirements.*

- a. In approving a home occupation permit, the Commission shall designate the specific uses permitted.
- b. Any change in use and/or addition to the site of any structure to be used in conjunction with the home occupation shall require the re-submittal of an application and approval as required by Subsection (c) of this section. All representations made by the applicant to the Commission or to the Governing Body in connection with an application for a home occupation permit, whether presented in written form or verbally presented at hearing, shall be deemed conditions of the home occupation permit, and any subsequent deviation therefrom shall be considered a change in use requiring re-submittal of an application and approval of an amended home occupation permit reflecting the change in use.

(d) Special use permit.

- (1) *Approval and permit required.* Any person or entity wanting to engage in a use on a commercial zoned lot which is not identified as a commercial permissive use for the C zone, or a use on a lot zoned M for municipal, public or quasi-public use which is identified as a use by review for the M zone, may request a special use permit for that particular use.
- (2) *Application and fee.* Anyone wanting a special use permit must obtain and submit the completed application for a special use permit. This application shall be returned to the Administrator accompanied by the appropriate application fee and number of sets of required drawings. All special use permits must satisfy at least the following minimum requirements:
 - a. Show proposed new structure(s) and any existing buildings or structures, all property lines with dimensions, all roads/streets, easements and setbacks.
 - b. Show all locations on-site for water, septic, sewer, refuse, electrical points of connections, proposed service routes and existing utilities on the site.
 - c. Show all required parking, drainage and grading information.
 - d. Show required landscaping information

- e. Indicated drainage inflow and outflow locations and specify areas required to be maintained for drainage purposes.
 - f. Include a topographic survey if requested by the Administrator.
 - g. Show all structures on adjacent properties located within twenty-five (25) feet of the site.
 - h. Identify the zone designations of adjacent properties.
 - i. Additional information necessary to demonstrate compliance with the requirements for the article as determined by the Administrator.
 - j. Show north arrow and scale on all drawings unless clearly unnecessary for the specific drawing in question.
- (3) *Review process.* The Administrator shall schedule a hearing before the Planning and Zoning Commission no later than 45 days following the submittal of a completed application, and legal notice (as defined in Section 18-29) of the hearing shall be provided to adjacent property owners with the costs of such notice borne by the applicant.
- (4) *Meeting with Administrator.* Prior to submitting an application, the applicant shall first schedule a meeting with the Administrator. Review and comments can be obtained at this time, concerning the relationship of the proposed special use to the Village comprehensive plan and the applicable zoning ordinances, along with copies of the pertinent sections of this article, applications and other submittal requirements.
- (5) *Guidelines.* The Planning and Zoning Commission shall not approve any special use permit unless all the requirements as required by this article for the C commercial zone or the M municipal, public and quasi-public zone, as applicable, are met and satisfactory provisions have been made concerning the following, where applicable:
- a. Accessibility to property and proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe; access shall be from a major thoroughfare to the extent possible;
 - b. Off-street parking and loading areas where required, with particular attention to the refuse and service areas;
 - c. Show all on-site locations for water, septic, sewer and liquid waste facilities, with reference to soil limitations, locations and public health;
 - d. On-site drainage and storm water runoff;
 - e. The noise, glare, or odor effects of the proposed use on adjoining properties;
 - f. General compatibility with existing adjacent properties; and
 - g. The goals and objectives of the Village of Corrales' Comprehensive Plan.
 - h. Applicant must show an approved NMED waste permit for the proposed use.
 - i. State engineer's approval of the well and water usage for the proposed use.

(6) *Additional requirements:*

- a. In approving a special use permit, the Planning and Zoning Commission may impose any condition deemed to be in the best interests of the village.
- b. Any change in use and/or any alteration or addition to the site of any structure upon the site shall require the resubmittal of an application and approval as required by this section.

(7) *Sunset:* Any special use permit will automatically expire twenty-four (24) months after approval by the Commission if the approved use is not implemented. The Commission, in its discretion, may extend, or not extend, this time in cases in which the use is the subject of litigation or for any other reason that excuses the failure to undertake the use through no fault of the applicant. Any decision by the Planning and Zoning Commission to extend the time for implementation of the special use may be appealed to the Governing Body.

(8) *Abandonment.* Whenever a special use permit has been discontinued or abandoned for a period of twelve (12) months or more, such use shall not thereafter be reestablished, and any future use must be in conformance with the provision of this article.

(e) Demolition permit.

(1) *Scope and purpose.* It is the intent of this Subsection 18-45(e) to (a) preserve and protect buildings and structures that constitute or reflect distinctive features of the architectural, cultural, economic, political or social history within the Corrales Road Commercial Area, as defined in Section 18-37(2); (b) limit the detrimental effect on community character and heritage that may result from the demolition of such buildings and structures; and (c) provide timely review of applications for demolition permits so as not to impose undue burdens on the applicant. This Subsection 18-45(e) is applicable to all properties, residential or commercial, within the Corrales Road Commercial Area.

(2) *Limitations and exceptions; emergency demolition.*

- (a) This Subsection 18-45(e) shall not apply to applications or requests for demolition due to an actual threat to public health or safety or to emergency demolition orders issued by the Village as a consequence of a threat to public health, safety or welfare. In the event that an applicant or other authority requests approval for emergency demolition because of an imminent and substantial danger to the health or safety of the public, the Administrator shall cause the inspection of the premises and the documentation in writing or through photographic means of the conditions or circumstances appearing to require emergency demolition. If the Administrator determines that emergency demolition is justified, the Administrator shall state in writing the Administrator's findings and reasons requiring the emergency demolition, and shall issue the requested permit. The Administrator's findings and all documentation supporting them shall be made part of the record relating to the permit.
- (b) The provisions of this Subsection 18-45(e) shall not be construed to prevent the ordinary maintenance or repair of any exterior architectural features, nor to prevent the erection, alteration or removal of any such feature which the Mayor, the Village Administrator, the Planning and Zoning Administrator, the building inspector, the fire chief, or the designee of any of them, determines must be erected, altered or removed for the public safety because of an unsafe condition resulting from damage or deterioration.

- (3) *Creation of Corrales Heritage Committee.* There is hereby created the Corrales Heritage Committee, consisting of up to five (5) members appointed by the Mayor with the advice and consent of the Governing Body. Each member appointed to the Corrales Heritage Committee shall have expertise or experience in some aspect of historic preservation. The Corrales Heritage Committee shall meet from time to time, on the request of the Administrator or at the call of the chairperson, to advise the Administrator regarding any specific applications for demolition permits that may be submitted under this Subsection 18-45(e). All meetings of the Corrales Heritage Committee shall be public and shall be appropriately noticed. However, the Corrales Heritage Committee shall be purely advisory in nature, and shall not have power to establish or implement public policy.
- (4) *Actions requiring demolition permit.*
- (a) No person, partnership, firm, corporation, or other entity of any nature shall demolish any building, structure or part thereof if any portion of such building or structure is over fifty (50) years old and is located on land within the Corrales Road Commercial Area, as defined in Section 18-37(2), except in accordance with a demolition permit issued by the Administrator or building inspector following approval by the Commission. If the age of the building or structure is unknown, undeterminable or in dispute, it shall be assumed to be at least fifty (50) years old for purposes of this Subsection 18-45(e). A demolition permit shall be issued with such limitations and conditions, if any, as may be imposed or required by the Commission.
- (b) Each demolition permit shall clearly describe the building or structure to which it applies. The terms *building* and *structure* as used herein have the meanings set forth in Section 18-29. In accordance with those definitions, the term *structure* shall be understood to include constructed edifices of any kind, and includes but is not limited to buildings, fences, barns, bandstands, bridges, gates, and other structures not necessarily meant for human occupation. A permit to demolish or remove one building or structure shall not be deemed to include permission to demolish or remove other buildings or structures on or off the property, unless explicitly included within the scope of the permit.
- (c) In addition to complete demolition of a building or structure, the following actions shall require a demolition permit for buildings or structures described in the foregoing Subsection 18-45(e)(4)(a):
- a. Removal of a roof for the purpose of: raising the overall height of a roof; rebuilding the roof to a different pitch; or adding another story to the building or structure.
 - b. Removal of one or more exterior walls of a building if the wall or walls faces Corrales Road.
 - c. Removal of more than twenty-five percent (25%) of the gross square footage of a structure, as determined by the Administrator or building inspector.
 - d. The lifting and relocation of a building on its existing site or to another site.
 - e. The delay or withholding of maintenance on a building or structure in such a way as to cause or allow a significant loss of architectural integrity or structural stability.

- (5) *Demolition permit application.* Any person, partnership, firm, or entity seeking to demolish, in whole or in part, a building or structure that is over fifty (50) years old and is located on land within the Corrales Road Commercial Area shall deliver to the Village Clerk an application, in a form approved by or acceptable to the Administrator, which shall include as a minimum the following:
- (a) The common name (if any) and actual street address of the building or structure, and a complete legal description of the land upon which the building or structure is located;
 - (b) The name, address and telephone number of the applicant and of the owner of the land, if the landowner is not the applicant;
 - (c) The age of the building or structure and, if applicable, of the portion of the building or structure proposed for demolition, with evidence for the age stated;
 - (d) The total dimensions or square footage of the building or structure to be demolished;
 - (e) The dimensions or square footage of the area proposed to be demolished, if less than the entire building or structure;
 - (f) A brief description of the materials, configuration and use of the existing building or structure;
 - (g) One or more recent photographs showing all elevations and including an aerial photograph of the building or structure;
 - (h) The reason for requesting a demolition permit;
 - (i) A brief description of the proposed reuse, reconstruction or replacement for the existing building or structure; and
 - (j) The signatures of the applicant and of the landowner (if different from the applicant) affirming the accuracy of the information provided and confirming that the application is submitted with their approval.
- (6) *Review process.*
- (a) The Administrator shall schedule a hearing before the Commission no less than sixty (60) days after the submittal of a completed application for demolition with the required fee, if any. The completeness of the application shall be determined by the Administrator. In the event that an application is deemed incomplete, the application shall be returned to the applicant with a notation of the deficiencies rendering it incomplete. The Administrator shall prepare a report for presentation to the Commission prior to the hearing, with the Administrator's recommendations to the Commission. In preparing the report, the Administrator may (1) seek the advice of the Corrales Heritage Commission; (2) seek or require the applicant to provide additional information that the Administrator deems reasonably necessary for his or her recommendation; or (3) meet with the applicant to discuss options, alternatives or other outcomes in lieu of demolition.
 - (b) Public notice is required for the hearing at which the demolition permit application will be heard by the Commission. In addition to public notice, the applicant shall obtain from the Village a notification sign, which shall include information pertinent to the

demolition permit application and notify readers of the date and time of the hearing before the Commission. The sign must be displayed by the applicant in a location visible and prominent to the general public on the property for which the demolition permit is requested, for a period of not less than fifteen (15) days prior to the date of the hearing.

- (c) At hearing, the Commission may approve the demolition permit application, may deny it for good cause shown, or may approve it with such conditions as may appear best to the Commission considering all testimony and evidence presented. In considering a demolition permit application, the Commission may take into account, but is not limited to, the following considerations:
 - a. Whether the building, structure or property is listed on the National and/or State Register of Historic Places;
 - b. Whether the building, structure or property is associated with persons or events of historical importance;
 - c. Whether the building, structure or property is associated with the architectural, cultural, political, economic or social history of the Village; and
 - d. Whether the building or structure is historically or architecturally reflective for its period, style, method of construction or association with a particular architect, builder or craftsman.
 - (d) In the event that a demolition permit is granted, the Commission may as a prior condition for issuance of such permit:
 - a. Require submittal of a replacement site development plan meeting the requirements set forth in Subsection 18-45(a);
 - b. Require documentation of any architectural, cultural, economic, political or social history attributes of the building or structure to be demolished; or
 - c. Impose such other pre-demolition requirements as the Commission deems appropriate.
- (7) *Withdrawal of application.* In the event that a property owner or applicant prior to hearing before the Commission determines that an alternative use in lieu of demolition is appropriate and acceptable, then:
- (a) The applicant shall submit a written statement to the Village Clerk, the Administrator or their designee withdrawing the demolition permit application and stating in general terms the alternative use or disposition that will be made in lieu of demolition.
 - (b) The applicant, along with or following submittal of the written statement withdrawing the application, may submit any application or request that is necessary in connection with the alternative use or disposition. Any fee paid to the Village in connection with the demolition permit application shall be credited against any fee or fees required to be paid in connection with the application or permit request for the alternative use or disposition.
- (8) *Notice for historically registered properties.* In the event that a demolition permit

application is submitted for any property registered on the National and/or State Register of Historic Places, the Administrator shall promptly, in writing, notify the Corrales Historical Society and the New Mexico State Historic Preservation Office (SHPO) of the application. In addition, to ensure adequate notice to the public, the applicant shall within two (2) days following submittal of the application place in a prominent visible location upon the property a sign, provided or approved by the Administrator, notifying viewers that the demolition permit application has been submitted and will be considered by the Commission at a date to be determined, which sign shall remain in place until the hearing before the Commission or the withdrawal of the application.

- (9) *Issuance of permit.* A demolition permit approved by the Commission shall be issued by the Administrator promptly after approval, unless before issuance of such permit a timely appeal of the Commission's decision is filed in accordance with Section 18-49.
- (10) *Time limitation and expiration of permit.* Any demolition permit issued pursuant to this Subsection 18-45(e) shall be valid for a period of one hundred eighty (180) days from the date of issuance. In the event that the permitted demolition is commenced but not completed within one hundred eighty (180) days from the date of issuance, the permittee may request an extension of time to complete the demolition, and the Administrator in his or her discretion may approve an extension of time not to exceed ninety (90) days. In the event that the permitted demolition has not been commenced within one hundred eighty (180) days from the date of issuance, the permittee may seek Commission approval for an extension of time, which shall not exceed an additional one hundred eighty (180) days from the original expiration date. If the demolition work has not been completed within the one hundred eighty (180) day permit period plus approved extensions, if any, the demolition permit shall be void and the work may not proceed until the applicant has submitted a new application and obtained a new demolition permit in accordance with all applicable requirements.
- (f) Public notification.
- (1) *Site development plan and special use permit approval.* Legal notice shall be given for any hearing at which a request for a site development plan or special use permit approval will be heard. In addition to legal notice, the applicant shall obtain from the Village a notification sign, which contains information that is pertinent to the site development plan or special use permit application. This sign must be displayed by the applicant in a location visible and prominent to the general public on the property for which the site development plan or special use permit review is requested for at least fifteen (15) days prior to the date of the hearing.
- (2) *Home occupation permit.* The hearing at which a request for a home occupation permit will be heard requires public notice. In addition to public notice, the applicant shall obtain from the Village a notification sign, which contains information that is pertinent to the home occupation permit application. This sign must be displayed by the applicant in a location visible and prominent to the general public on the property for which the home occupation permit is requested for at least 15 days prior to the date of the hearing.

History: Ord. No. 190 § 2, adopted 4-11-88; Ord. No. 192, § 8-1-21, adopted 11-13-89; Ord. No. 332, §18-45-b, adopted 02-10-98; Ord. No. 06-02, adopted 5-23-06; Ord. No. 06-16, adopted 11-28-06; Ord. No. 09-003, adopted 4-14-09; Ord. No. 09-005, adopted 5-19-09; Ord. No. 10-009, adopted 9-14-10; Ord. No. 10-008, adopted 9-28-10; Ord. No. 12-003, adopted 2-14-12.

Section 18-46. Administration and enforcement.

(a) *Administrative official.* An Administrator shall be appointed by the Mayor, subject to the approval of a majority of all the members of the Governing Body, to administer and enforce the provisions of this article.

(b) *Information and records.* The Administrator shall make available to the public the information contained in this article. The Administrator shall maintain the official zone map. The Administrator shall make available to the public the appropriate forms necessary for compliance with the requirements of this article.

(c) *Issuance of permits or certificates.* As stipulated by this article, applications for permits, reviews, or certificates pertaining to the use of land or buildings shall be subject to the approval of the Administrator and/or Planning and Zoning Commission, as required by this article. Any such permits or certificates issued in conflict with the provisions of this article shall be void.

(d) *Inspections.* The Administrator or an assistant shall have the authority to enter any building or upon any premises for the purpose of inspection; provided that no dwelling shall be entered without the consent of the occupant unless at least 24 hours' notice of intent to enter shall have been served upon such occupant.

(e) *Authority.* 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, the Administrator, in addition to other remedies, may institute any appropriate action to restrain, correct, or abate such violation, to prevent the occupation of such building, structure, or land; or to prevent any illegal act, conduct, business or use in or about such premises.

History: Ord. No. 192, § 8-1-22, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-47. Nonconforming uses.

(a) *Defined.* A structure or use of structure or land which was lawful prior to November 13, 1989, but would be prohibited or restricted under the terms of this article, shall be deemed a nonconforming use.

(b) *Certificate of nonconformance.* At the request of the property owner, and to the satisfaction of the Administrator that a structure or use of structure or land qualifies as a nonconforming use, the Administrator shall issue a certificate of nonconformance to the owner of each nonconforming use.

(c) *Expansion.* The addition of a lawful use to any portion of a building which currently houses a nonconforming use which existed prior to the effective date of this article shall not be deemed an extension of such nonconforming use.

(d) *Restoration and replacement.* If a nonconforming structure is damaged or destroyed by any means, its restoration and/or replacement shall be permitted provided that:

- (1) There is no increase in lot coverage or total square footage of structures as a result of that restoration and/or replacement; and
- (2) Restoration and/or replacement is in conformance with the height, setback, open space, landscaping and architectural requirements of this article within the applicable zone district.

(e) *Abandonment.* Whenever a nonconforming use has been discontinued or abandoned for a period of twelve (12) months or more, such use shall not thereafter be reestablished, and any future use must be in conformance with the provisions of this article.

(f) *Nonconforming lot size.* Any lot of record existing, prior to the effective date of this article which fails to meet the minimum requirements of this article, may be developed, redeveloped, or improved provided that all other requirements of the lot are in conformance with the provisions of this article and

provisions of all other State laws and Village ordinances. Unless specifically cited by the Planning and Zoning Commission, a certificate of nonconformance will not be required for nonconforming lots.

History: Ord. No. 155, adopted 4-21-86; Ord. No. 192, §§ 8-1-23 & 8-1-29, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-48. Amendment, zone map amendment, and variance procedures.

(a) *Amendment.* The Governing Body may amend any part of this article, including the zone district boundaries, following a review and recommendation made by the Planning and Zoning Commission; however, the Governing Body is not bound by the recommendation of the Commission.

(b) *Review process for amendment.* The Administrator shall schedule a public hearing on any proposed amendment to this article before the Planning and Zoning Commission no later than sixty (60) days following the submittal of a request for such public hearing by the Governing Body. The Commission shall transmit a recommendation in writing to the Governing Body within fifteen (15) days after its review of the proposed amendment is completed.

(c) *Applications for zone map amendment or variance.* Anyone requesting a zone map amendment or variance to this article must submit the completed application form for a zone map amendment or variance request. This form shall be returned to the Administrator accompanied by the appropriate application fee and number of sets of required drawings.

(d) *Meeting with Administrator.* Prior to submitting an application for a zone map amendment or variance, the applicant shall first schedule a meeting with the Administrator. Review and comments can be obtained at this time concerning the relationship of the application to the Village Comprehensive Plan and the applicable zoning ordinances, along with copies of the pertinent provisions of this article, applications and other submittal requirements.

(e) *Review process for zone map amendment.* The Administrator shall schedule a hearing on an application for a zone map amendment before the Planning and Zoning Commission no later than sixty (60) days following the submittal of the completed application. The Commission shall transmit a recommendation on any zone map amendment request in writing to the Governing Body within fifteen (15) days after its review of the proposed zone map amendment is completed. The Governing Body shall schedule a hearing on the application for a zone map amendment as soon as reasonably practicable, but no more than one hundred twenty (120) days after the Commission's recommendation is transmitted to the Governing Body.

(f) *Conditions for zone map amendment.* In considering a request for approval of a zone map amendment, the Planning and Zoning Commission and Governing Body shall consider the following, and may impose any condition deemed to be in the best interests of the Village:

- (1) *Village-owned property; request for zone map amendment to "M" Municipal, public and quasi-public zone.* In considering a request by the Village for approval of a zone change to "M" (Municipal, public and quasi-public) zone, the Commission and the Governing Body shall consider the overall health, safety and welfare of the community.
- (2) *Other zone map amendment request.* In considering a request for approval of a zone map amendment, other than Village-owned property to the "M" zone, the Commission and the Governing Body shall consider the following, and may impose any condition deemed to be in the best interests of the Village:
 - a. Accessibility to property and proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, adjoining streets/roads, and emergency

- access in case of fire, flood or catastrophe;
- b. Off-street parking and loading areas where required, with particular attention to refuse and service areas;
 - c. Show all locations on site for water, septic, sewer and liquid waste facilities, with reference to soil limitations, locations, and public health;
 - d. The noise, glare, or odor effects of the proposed use on adjoining properties;
 - e. On-site drainage and storm water runoff;
 - f. Compatibility with the zoning and use of adjacent properties and other properties in the vicinity;
 - g. The overall health and safety of the community, and
 - h. The goals and objectives of the Comprehensive Plan.

(g) *Review process for variance.* The Administrator shall schedule a hearing on the application before the Planning and Zoning Commission no later than sixty (60) days following the submittal of a completed application.

(h) *Conditions for variance:* The Planning and Zoning Commission may deny any request for a variance that is based on conditions which are the result of the action of the applicant. Where the Planning and Zoning Commission finds that the strict application of the requirements of this article would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building, a variance may be granted provided that:

- (1) The variation of this article will not be contrary to the public interest,
- (2) The variation will not adversely affect adjacent property owners or residents,
- (3) The conditions are unique to the property, and
- (4) The variance is authorized only for lot controls and not for use of the premises.

(j) In considering a request for approval of a variance, the Planning and Zoning Commission may impose any condition deemed to be in the best interests of the Village. The Commission shall consider the following:

- (1) Accessibility to property and proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, all streets/roads, and emergency access in case of fire, flood or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to refuse and service areas;
- (3) Show all locations on site for water, septic, sewer, and liquid waste facilities, with reference to soil limitations, locations, and public health;
- (4) The economic, noise, glare, or odor effects of the proposed use on adjoining properties;

- (5) On-site drainage and storm water runoff;
- (6) General compatibility with adjacent properties and other properties in the vicinity;
- (7) The overall health and safety of the community, and
- (8) The goals and objectives of the comprehensive plan.

(j) *Public notification.* The hearing before the Planning and Zoning Commission at which a request for a zone map amendment or variance will be heard must receive legal notice. In addition to legal notice, the Administrator will provide the applicant with a notification sign, which contains information that is pertinent to the zone map amendment or variance application. This sign must be displayed by the applicant in a location visible and prominent to the general public on the property for which the zone map amendment or variance is requested for at least fifteen (15) days prior to the date of the hearing.

(k) *Preservation incentive variance; scope, application and review.* The scope, application process, review procedures and conditions for approval set forth in this Subsection 18-48(k) govern applications for a preservation incentive variance as provided in Subsection 18-35(11) and Subsection 18-37(12).

- (1) *Intent and scope.* It is the intent of this subsection to provide incentives for property owners in the Corrales Road Commercial Area (CRCA) and the H – Historic Area Zone to preserve and protect buildings fifty (50) years old or older, traditional development patterns, structures built of traditional materials such as adobe and terrón, and to provide flexibility in the application of ordinances and regulations that may be inconsistent with the historical development and building traditions of Corrales. An application for a preservation incentive variance relating to property within the CRCA or the H zone may be requested for:
 - a. Lot coverage;
 - b. Parking requirements and location;
 - c. Setback requirements;
 - d. Architectural requirements; or
 - e. Fees imposed by the Village.
- (2) *Application.* Any person seeking a preservation incentive variance in connection with a development review permit, a site development plan or other required permit for property in the CRCA or the H zone shall deliver a complete application to the Village Clerk for review by the Administrator prior to or in conjunction with the application for permit or plan approval. No fee shall be required for submittal of the preservation incentive variance application. A complete application shall include, as a minimum, the following:
 - a. The common name (if any) and actual street address of the property and the building or structure that is the basis for the application, and a complete legal description of the land;
 - b. The name, address and telephone number of the applicant and of the owner of the land, if the owner is not the applicant;
 - c. A brief description, with appropriate drawings and photographs, stating the existing conditions on the property;

- d. A description and drawings of the proposed project, including any changes to existing buildings fifty (50) years old or older or structures built of adobe or terrón, and any changes in appearance of the property that will be visible from Corrales Road or Old Church Road. Include a brief description of the proposed use or reuse of the property and existing buildings or structures on the property. Include a discussion of the property's existing contribution characteristics to the historic Village character, and how the proposed project will be consistent with, or will enhance the historic characteristics of the area. Written descriptions may discuss construction materials and methods; architectural style and building typology; massing and scale; siting of existing and proposed buildings, structures and walls; open space; landscaping; and views to features such as the Sandia Mountains or the sandhills in the western part of the Village;
 - e. If a waiver of fees is requested, include a discussion of economic need, and economic benefit of the proposed project; and
 - f. The signatures of the applicant and of the landowner, if the landowner is not the applicant, affirming the accuracy of the information provided and confirming that the application is submitted with the approval of the signatory.
- (3) *Review and hearing.* Upon receipt of a complete application for a preservation incentive variance, the Administrator shall submit the application for review and comment by the Corrales Heritage Committee. The Administrator shall forward the application, along with any recommendation or comment by the Administrator or the Corrales Heritage Committee, for consideration by the Commission in conjunction with the development review permit, site development plan or other required permit sought in conjunction with the requested preservation incentive variance, or separately if the applicant is not seeking a permit that requires approval by the Commission. The hearing before the Commission at which the application is heard shall be scheduled as soon as reasonably practicable, and shall receive legal notice in accordance with Subsection 18-48(j).
- (4) *Conditions for approval.* In considering an application for a preservation incentive variance, the Commission may deny the request, approve it, or approve it subject to any condition or conditions reasonably deemed to be in the best interest of the Village. The Commission shall take into consideration all relevant information, including but not limited to the following:
- a. The comments and recommendation of the Corrales Heritage Committee regarding the application;
 - b. Whether the proposed project furthers the Village goals of preserving and protecting the historic character of the Village;
 - c. Whether the proposed project will be beneficial to the public, or at a minimum not detrimental to the interests of the public;
 - d. Any adverse effects on adjacent and nearby property owners and residents; and
 - e. Whether the property includes a building or buildings listed on the National or State register of historic places; is associated with persons or events of historical importance; is associated with the architectural, cultural, political, economic or social history of the Village; or is historically or architecturally reflective for its period, style, method of construction or association with a particular architect, builder or craftsman.

History: Ord. No. 192, § 8-1-24, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 06-16, adopted 11-28-06; Ord. No. 07-002, adopted 4-24-07; Ord. No. 09-005, adopted 5-19-09; Ord. No. 12-006, adopted 3-27-12.

Section 18-49. Appeals.

(a) *Right of appeal.* Anyone aggrieved by a decision of the Administrator or Planning and Zoning Commission in carrying out the provisions of this article may appeal to the Governing Body. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by substantial evidence.

(b) *Application.* Any appeal following a decision of the Administrator or Planning and Zoning Commission shall be made in writing to the Governing Body, together with payment of the applicable filing fee. Any appeal not submitted within 20 days after the decision which is the subject of the appeal shall not be considered by the Governing Body. The day of determination is not included in the 20-day period for filing of appeal, and if the 20th day falls on a Saturday, Sunday or national holiday, the next working day is considered as the deadline for filing the appeal.

(c) *Public hearing.* The decision of an appeal shall be made by the Governing Body following a public hearing. The hearing at which an appeal will be heard must receive legal notice if the decision appealed was on a matter requiring legal notice.

(d) *Stay of proceedings.* A proper appeal by an aggrieved party shall stay all proceedings in the action unless the Administrator or Planning and Zoning Commission determines that a stay will cause imminent peril to life or property. Upon such certification, the proceedings shall not be stayed except by order of the district court.

(e) *Decision.* An appeal shall be decided within sixty (60) days of the date of application of the appeal. A majority vote of the members of the Governing Body is required to reverse, change or affirm a decision made by the Administrator or the Planning and Zoning Commission.

History: Ord. No. 192, § 8-1-25, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-50. Hearings.

The Planning and Zoning Commission must fix a regular time and place for regular meetings. Special public hearings may be held at other than the established regular time or place provided public notice of the meetings is given at least 48 hours in advance. The Commission must keep minutes of its proceedings, including a record of the vote of each member on each question, and the minutes must be public records. Public notice of the meetings at which the Governing Body will consider a recommendation from the Commission on an application must be given in the Village at least 15 days before the meeting by posting in public places in the Village, as required by the Village's open meeting resolution.

History: Ord. No. 192, § 8-1-26, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-51. Fees.

(a) *Applications and permits.* All applications and permits required by this article shall not be processed without payment of an administrative fee to the Village by the applicant at the time of application as specified in this section. All fees are nonrefundable. The Governing Body, by resolution, may determine the amounts of such fees and may from time to time amend them. The Administrator shall maintain a schedule reflecting fees currently in effect for:

- (1) Development review for proposed construction of residential structures;
- (2) Development review for manufactured or mobile homes;
- (3) Development review for proposed construction of nonresidential structures;
- (4) Site development plan review, variances, special use permits and amendments to the zone map or text of this article;
- (5) Home occupation permit;
- (6) Certificate of occupancy;
- (7) Appeals to the Governing Body, and,
- (8) Any other type of planning or zoning application for which the Governing Body may impose an application fee by resolution or ordinance.

(b) All costs incurred for publication and certified mailings related to notice of the hearing shall be paid by the applicant.

(c) Where the applicant can demonstrate that payment of the above stated fees will result in extraordinary hardship to the applicant, application may be made to the Planning and Zoning Commission in writing with supporting documentation for a refund of fees. The Commission in its absolute discretion may refund the fees.

History: Ord. No. 192, § 8-1-27, adopted 11-13-89; Ord. No. 384, adopted 7-13-04; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Section 18-52. Penalty for violation of article.

Any person who violates any provision of this article shall, upon conviction, be punished in accordance with Section 1-6.

History: Ord. No. 192, § 8-1-28, adopted 11-13-89; Ord. No. 06-02, adopted 5-23-06; Ord. No. 09-005, adopted 5-19-09.

Sections 18-53 to 18-75. Reserved.

ARTICLE III. SUBDIVISIONS

State law reference: Subdivisions, NMSA 1978, §§ 3-20-1 to 3-20-16.

Section 18-76. Title, purpose, jurisdiction and applicability.

(a) *Title.* For the purpose of this article, the requirements set out in this article shall be referred to as the “Land Subdivision Regulations of the Village of Corrales, New Mexico.”

(b) *Purpose.* The land subdivision regulations set out in this article are adopted and shall be invoked to provide for the harmonious development of the Village and its environs; to coordinate streets within subdivisions with other existing or planned streets or with other features of the master plan of the municipality and of the territory lying within three miles of the corporate limits; and to provide for distribution of population and traffic which will tend to create conditions favorable to health, safety,

convenience, prosperity or general welfare.

(c) *Jurisdiction and applicability.* The land subdivision regulations shall be applicable to all the territory within the present municipal boundary of the Village, and all territory within the area of extraterritorial planning and platting jurisdiction, and shall be under the jurisdiction of the Planning and Zoning Commission and the Governing Body. If annexation of land to the Village should occur, this article automatically applies to the annexed land and that land lying up to three miles therefrom, except where overlap of areas of planning and platting jurisdiction occur, in which case such limit shall be governed by NMSA 1978, § 3-19-5, as amended.

History: Ord. No. 63, §1, adopted 1-13-76; Ord. No. 09-006, adopted 5-19-09.

Section 18-77. 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:

Administrator means the Planning and Zoning Administrator of the Village.

Alley means a public way used primarily as a service access to the rear side of a property which abuts on a street.

Arterial means a major street or thoroughfare that carries, or will carry, a considerable volume of traffic of more than neighborhood character and which also serves abutting properties.

Block means the distance measured along a street between intersecting streets from centerline to centerline; and where the context requires, such term also means the enclosed area within the perimeter of the street or property lines enclosing it.

Building or setback line means a line on a plat between which line and a street no building may be erected.

Cluster housing means two or more single-family dwelling units under one roof or in close physical proximity

Collector street means a street that serves as a connection between a major or secondary thoroughfare and several minor streets. The term includes the principal entrance streets of a residential development and streets for major circulation within such a development.

Commission means the Planning and Zoning Commission of the Village.

Cul-de-sac means a minor street with only one outlet and culminated by a turnaround at the dead end.

Drainage course means a natural watercourse or indenture for the drainage of surface waters.

Easement means a grant by the property owner of the use, for a specific purpose, of a strip of land by the general public, a corporation, or a certain person or persons.

Lane means the narrowest public way furnishing the principal access to a parcel of land.

Legal description, for the purposes of a preliminary plat, final plat or summary plat, means a series of lines around the perimeter of an area known as a metes and bounds description; “metes” means bearings and distances and “bounds” means and refers to monuments both physical and legal.

Legal notice means giving the public notice of a hearing at least 30 days before the date of

the hearing, by posting in the Village and also by mailing written notice by certified mail, return receipt requested, not less than 15 days before the date of the hearing, to the owners of all property within 300 feet of the exterior boundaries, excluding public right-of-way, of the property on which a hearing has been requested, using for these purposes the last known name and address of the owners shown in the records of the county assessor.

Lot means a parcel or tract of land platted and recorded with the County Clerk in accordance with appropriate laws and ordinances.

Master or comprehensive plan means the master plan of the Village.

Minor or local residential street means a street of relatively short length that provides direct access to a limited number of abutting residential properties and is designed to discourage its use by through traffic.

Performance bond means a surety bond or cash deposit made out to the Village in an amount equal to the full cost of the improvements which are required by this article, such cost being estimated by the Village and such surety bond or cash deposit being legally sufficient to secure that the improvements will be constructed in accordance with this article.

Planning Commission or Commission means the officially appointed Planning and Zoning Commission of the Village.

Plat means a map, chart, survey, plan or replat certified by a licensed, registered land surveyor which contains a description of the subdivided land with ties to permanent monuments.

Reserve strip means an unbuildable parcel of land within a subdivision that by its configuration and location serves to restrict or prevent reasonable access or communication between the subdivision, or buildable lots located therein, and adjacent rights of way or public streets.

Roadway means that portion of a street which is primarily devoted to vehicular traffic.

Street means a way, right-of-way or easement, whether on public or private land, used or intended to be used by the general public and open to the general public for passage or travel by motor vehicle, but does not include a driveway or similar way designed or created for access to a single property or a limited number of properties, merely by virtue of providing access to such properties for the general public.

Street pull-off means an area adjacent to and contiguous with a street or roadway, demarcated and set aside for the use of vehicles to facilitate the passing of vehicles so as to enhance the flow of traffic and access for emergency vehicles.

Street width means the distance between lot lines measured at right angles to the street centerline.

Subdivide means to divide or redivide land into two or more parts for the purpose, whether immediate or future, of sale, lease, offer, or development, whether by deed, metes and bounds description, lease, map, plat or other instrument, including all changes in street or lot lines. *Subdivide* does not include the following actions:

- (1) The lease of land for grazing or farming activities.
- (2) The lease of apartments, offices, stores or similar space within a building.
- (3) The lease of a building within a commercial or office development.

- (4) The division of land in which only gas, oil, mineral or water rights are severed from the surface ownership of the land.

Subdivider means any persons, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined in this section, and includes any agent of the subdivider.

Subdivision means:

- (1) The act of subdividing; or

- (2) The parcel of land subdivided.

History: Ord. No. 63, §2, adopted 1-13-76; Ord. No. 07-08 § 1, adopted 6-26-07; Ord. No. 07-012 § 1, adopted 6-26-07; Ord. No. 09-006, adopted 5-19-09; Ord. No. 10-011, § 1, adopted 12-21-10; Cross reference: Definitions generally, § 1-2.

Section 18-78. Penalty for violation of article.

Whoever being the owner, or agent of the owner, of any land located in the Village or within the area of planning and platting jurisdiction of the Village transfers, sells, agrees to sell, or negotiates to sell such land by reference to any exhibition of or by other use of a plat or subdivision of such land before such plat has been approved as provided for in this article and recorded in the office of the Bernalillo or Sandoval County clerk, as the case may be, shall be deemed guilty of a misdemeanor and, upon conviction, shall forfeit and pay a penalty of \$100.00 for each lot so transferred or sold, or agreed, or negotiated to be sold. The description by metes and bounds in the instruments of transfer or other document used in the process of selling or transferring shall not exempt the transaction from penalties. The Village, through its attorney or other official designated by the Governing Body, may enjoin such transfer or sale or agreement by action for injunction or may recover the penalty by civil action, or both.

History: Ord. No. 63, §17, adopted 1-13-76; Ord. No. 09-006, adopted 5-19-09.

Section 18-79. General procedures.

(a) *Plat, when required.* It shall be unlawful for the owner, agent, or persons having control of any land within the corporate limits of the Village to subdivide or lay out such land into lots, blocks, streets, avenues, alleys, public ways and grounds unless by plat in accordance with the laws of the State and this article.

(b) *Public notification.* Legal notice shall be given for any hearing at which a request for summary plat approval, sketch plan review, preliminary plat approval or final plat approval will be heard. In addition to legal notice, the applicant shall obtain from the Administrator a notification sign which contains information that is pertinent to the application. This sign must be displayed by the applicant in a location visible and prominent to the general public on the property for which the subdivision is requested for at least fifteen (15) days prior to the date of the hearing.

(c) *Sketch plan submission and review.* Sketch plan submission and review may be required by the Planning and Zoning Administrator depending upon the complexity and impact of the proposed development. Before preparation of a preliminary plat, the subdivider must at the request of the Planning and Zoning Administrator or may at his option, submit a sketch plan for general review and comment by the Commission. The Commission shall review and advise the applicant concerning the appropriateness of the proposal under this article, current plans, policies, zoning classifications, infrastructure availability and geographic suitability for subdivision. The applicant shall complete and submit a sketch plan application and fourteen (14) sets of all application materials which shall include a location/vicinity map, a sketch plan showing the general layout of the proposed subdivision, and written information. The sketch plan drawings shall be in an 11 inch by 17 inch format. A CD or similar electronic media with a

file in .pdf format of the proposed subdivision shall be submitted with the paper materials. Following the sketch plan review by the Commission, a copy of the applicant's sketch plan application shall be retained in the Village files with the Commission's comments attached. The applicant must address all concerns raised by the Commission at the sketch plan review or request a waiver of conditions pursuant to Section 18-90 when making the preliminary plat application.

- (1) *Location/vicinity map.* This map shall consist of data added to an existing base map such as a United States Coastal and Geodetic Survey, village or county base map, covering at least a one mile radius from the tract proposed for development and shall show the relationship of the proposed plat to the existing residential areas, community facilities, all streets, commercial areas, schools, and parks.
- (2) *Sketch plan.* Show in simple sketch form the following:
 - a. Title of proposed subdivision and names and addresses of subdivider, legal owners, land planner, engineer, and land surveyor.
 - b. North arrow, scale, and date of sketch plan submission.
 - c. The general proposed layout of blocks, lots and other features numbered for identification.
 - d. Existing streets and roads including those which abut or serve the proposed development.
 - e. Proposed layout of streets indicated as public or private and labeled for identification.
 - f. Existing easements.
 - g. 100-year floodplain from FEMA approved maps or superseding report.
 - h. Existing storm drainage ways and facilities both on the proposed development property as well as those on all adjoining properties.
 - i. Identification of any major street or corridor shown on the long range major street plan.
 - j. Existing water and sewer locations and well and septic field locations on-site and on lands adjacent to the land being subdivided.
 - k. Existing irrigation access and ditches.
 - l. Copy(ies) of the recorded plat(s) that created the parcel or parcels of land to be subdivided.
 - m. Other features which may include major natural or manmade geographic features.
- (3) *Written information.* Additional written information may include identification of how and when subdivider intends to construct infrastructure improvements, data on existing covenants, irrigation ditch easements, land characteristics and proposed utilities as well as any information which may be helpful in supplementing the sketch plat and describing the proposed development.

(d) *Preliminary plat submission and approval required.* Following the sketch plan review, the subdivider shall complete and submit a preliminary plat application and fourteen (14) sets of all application materials as required in Section 18-86 for review by the Planning and Zoning Administrator, the Village engineer, the Village attorney, and the Commission. Ten (10) of the preliminary plat drawings shall be in an 11 inch by 17 inch format; four (4) of the preliminary plat drawings shall be full

size for review by the Village Engineer. A CD or similar electronic media with a file in .pdf format of the proposed subdivision shall be submitted with the paper materials.

- (1) The applicant must address all of the preliminary plat application requirements or request a waiver of conditions pursuant to Section 18-90 at the time of the plat application and submittal. The preliminary plat application shall detail how and when the subdivider intends to construct all public and private infrastructure improvements.
- (2) The Commission shall hold a hearing at which the applicant shall present the proposed development as shown on the preliminary plat application and submittal. After the hearing, the findings of the Commission shall be made and the Commission shall note on the preliminary plat application whether the plat has been approved in whole, approved with conditions, denied, or whether the applicant shall be required to submit an amended preliminary plat application for the purpose of demonstrating that the applicant has complied with the orders of the Commission.
- (3) Within one (1) year following approval of the preliminary plat by the Commission, the applicant shall submit a final plat for consideration by the Commission as provided in Section 18-87. If a final plat is not timely submitted, approval of the preliminary plat shall be deemed to have expired as provided in Subsection 18-86(g).

(e) Final plat approval and submission required. Following preliminary plat approval and the presentation of proof by the subdivider that the subdivider has complied with all preliminary plat requirements including, but not limited to, the completion of infrastructure requirements which may have been a condition of preliminary plat approval, the subdivider shall complete and submit a final plat application and fourteen (14) sets of all application materials as required in Section 18-87 for review by the Planning and Zoning Administrator, the Village engineer, the Village attorney, and the Commission. Ten (10) of the final plat drawings shall be in an 11 inch by 17 inch format; four (4) of the preliminary plat drawings shall be full size for review by the Village engineer. A CD or similar electronic media with a file in .pdf format of the proposed subdivision shall be submitted with the paper materials.

- (1) The applicant must address all of the final plat requirements at the time of the final plat application and submittal. The final plat application shall include a plat of the proposed subdivision prepared by a surveyor licensed and registered in the State and shall comply with all requirements of Section 18-87.
- (2) The Commission shall hold a hearing at which the applicant shall present the proposed development as shown on the final plat application and submittal. After the hearing, the findings of the Commission shall be made and the Commission shall note on the final plat application whether the plat has been approved in whole, approved with conditions, denied, or whether the applicant shall be required to submit an amended final plat application for the purpose of demonstrating that the applicant has complied with the orders of the Commission.
- (3) *Recording of final plat.* Upon approval of the final plat by the Commission, a full-size mylar containing the signatures as required shall be submitted to the Administrator by the applicant.
 - a. Submittal of the final plat for recording is the responsibility of the Village. Payment of all outstanding property taxes on the subdivided property prior to submittal of the plat for recording, including property taxes due for the current tax year, is the responsibility of the applicant or property owner.
 - b. Within sixty (60) days following approval of the final plat by the Commission and endorsement of the final plat by the chairman and secretary of the Commission, the Mayor and the Village Clerk, the applicant shall submit payment of the filing fee for recordation of

the plat along with documentation that all property taxes due on the property, including those for the current tax year, have been paid. The Village shall promptly record the plat in the office of the county clerk. The Village shall retain two (2) copies of the final plat as recorded and properly stamped and shall file them in the office of the Village Clerk.

- c. The final plat shall be effective only upon its recordation in the office of the county clerk. Approval of the final plat by the Village shall be null and void if the filing fee and a sufficient number of copies of the final plat are not presented to the Village for recordation, along with documentation that all property taxes due on the property have been paid, within sixty (60) days following endorsement of the final plat by all Village officials whose signatures are required thereon, unless an extension of time is granted by the Administrator for good cause shown. The total of all such extensions of time granted by the Administrator shall not exceed one hundred twenty (120) days.

History: Ord. No. 63, § 3, adopted 1-13-76; Ord. No. 190, § 3, adopted 4-11-88; Ord. No. 07-10 § 1, adopted 6-26-07; Ord. No. 07-012 §§ 2 through 5, adopted 6-26-07; Ord. No. 09-006, adopted 5-19-09; Ord. No. 10-011, § 2, adopted 12-21-10; Ord. No. 14-03, adopted 2-11-14.

Section 18-80. Suitability of land.

(a) No location map or preliminary plat shall be approved if, considering the best interests of the public, the site is not suitable for plat and development purposes of the kind proposed by reason of flooding or other such factors. Lots subject to flooding and lots deemed uninhabitable because of adverse earth or rock formation shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or cause an additional flood hazard, not compensated for by the drainage plan, to such property or to other properties adjacent thereto, or which may be affected thereby, but such land within a plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.

(b) *Adequate street access and right-of-way.* No summary plat, preliminary plat or final plat shall be approved if, considering the best interests of the public, the street or right-of-way providing access to the property is not of adequate width to increase the number of residential lots along any portion of the street or right-of-way, taking into account the potential danger to life, health or property that may arise where there is inadequate provision for access by emergency vehicles. An applicant for subdivision approval must show, as part of any summary plat, preliminary plat or final plat, the entirety of all lands, including easements and any other properties not owned in fee by the applicant, that are relied upon to provide access from a publicly dedicated street to the property. Such access must conform to the design standards set forth in Section 18-81, unless a waiver is granted for good cause shown. Application for a waiver must be accompanied by letters from the Village fire chief and the Village police chief endorsing the proposed waiver and specifically stating that, in their opinion, approval of such waiver will not be detrimental to the public health, safety or welfare.

History: Ord. No. 63, §4, adopted 1-13-76; Ord. No. 07-08 § 3, adopted 6-26-07; Ord. No. 09-006, adopted 5-19-09.

Section 18-81. Design standards.

- (a) Minimum requirements for streets and alleys within a subdivision.
 - (1) *Conformity to the approved future street lines.* The location and width of all streets shall conform to all future street lines approved by the Planning and Zoning Commission.
 - (2) *Street right-of-way widths.* The minimum street right-of-way width shall be as shown on the master plan, or if not shown on such plan:

| | <i>feet</i> |
|--|-------------|
| a. Thoroughfare | 60 - 100 |
| b. Collector street | 40 - 80 |
| c. Minor residential street | 30 - 40 |
| d. Lane (serving not more than five acres or dwellings)..... | 20 - 30 |
| e. Alley | 20 |

(3) *Roadways.* Dedicated public roadways of a subdivision will be constructed as described in Attachment A, “Minimum Road Section, Dedicated Public Roadways.” [See attachments following this Section 18-81.] The road section to be used will be subject to the approval of the Village engineer. All test results will be reviewed by the Village engineer before final acceptance of the road.

(4) *Trails.* Trails will be required and constructed within the right-of-way or easement for all streets constructed in the Village. The minimum trail width for streets having a street width of forty (40) feet or more will be five (5) feet on both sides of the constructed roadway, or ten (10) feet on one side. The minimum trail width for streets having a street width of less than forty (40) feet will be five (5) feet on at least one side of the roadway. Private streets may be exempted from the constructed trail requirement if the roadway itself serves a double function as a trail. To provide for access connections to existing or planned trails or ditchbanks, the Commission may require that trails be extended to specified locations on the external boundary of subdivided property. Trails shall be constructed as described in attachment C, “Trail Design Materials and Sections.” [See attachments following this Section 18-81.]

(5) *Street pull-offs.* On all roadways, public or private, with a constructed width of twenty (20) feet or less and a total length of one thousand (1,000) feet or more, there shall be provided at least one street pull-off for every one thousand (1,000) feet of roadway length. Street pull-offs, including cul-de-sacs, shall not be separated by a distance greater than one thousand (1,000) feet. Street pull-offs shall be constructed as described in Attachment B, “Street Pull-Off Diagram.” [See attachments following this Section 18-81.] Street pull-offs may be built over trails, provided there is a smooth transition from the trail surface to the surface of the street pull-off. Additional right-of-way width may be required to accommodate street pull-offs in conjunction with trails, drainage, utilities, and other requirements.

(b) *Additional width of existing or planned streets.* Subdivisions that adjoin existing or planned streets shall dedicate the right-of-way as necessary to meet the minimum street width requirements set forth in this section as follows:

- (1) The entire additional right-of-way shall be provided where the subdivision is on both sides of the street.
- (2) When the subdivision is located on only one side of an existing or planned street, as shown on the thoroughfare plan, one-half of the required additional right-of-way shall be provided.

(c) *Restriction of access.* When a subdivision or portion thereof adjoins a thoroughfare, no single-family residential lot shall have direct access thereto. Such lots shall be provided with frontage on a marginal access street or frontage street other than a thoroughfare with adequate depth for screen planting of the portion of any such lot contiguous with such thoroughfares.

(d) *Street grades.* Grades on all streets shall not exceed eight percent.

(e) *Street curves.*

- (1) *Horizontal curves.* Where a deflection angle of more than ten degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced as follows: On streets 60 feet or more in width, the centerline radius of curvature shall be not less than 300 feet; on other streets not less than 100 feet.
- (2) *Vertical curves.* All changes in grade shall be connected by vertical curves of minimum length in feet equal to 15 times the algebraic difference in rates of grade for thoroughfares and one-half this minimum length for other streets. Profiles of all streets showing natural and finished grades drawn to a scale of not less than one inch equals 100 feet horizontal, and one inch equals ten feet vertical, may be required by the Planning and Zoning Commission, if topographic conditions warrant.
- (f) *Intersections.* Street intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than 60 degrees.
- (g) *Street jogs.* Street jogs with centerline offsets of less than 125 feet shall not be allowed, whether between two proposed streets or between an existing and a proposed street.
- (h) *Dead-end streets.* Dead-end streets shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 80 feet and a street right-of-way diameter of 100 feet.

Where it is necessary to provide for street access to adjoining property not yet subdivided, proposed streets shall be extended by dedication to the boundary of such unsubdivided property. Such temporary dead-end streets shall be provided with a temporary turnaround having a roadway diameter of at least 80 feet.
- (i) *Private streets and reserve strips.* Every created lot shall have legal access to a publicly dedicated street. There shall be no reserve strip controlling access to streets, except where the control of such strip is definitely placed with the Village under conditions approved by the Governing Body. Gates on private roads are required to provide a lockbox or other access system approved by the Fire Chief for access by emergency and public safety vehicles.
- (j) *Alleys.* Alleys 20 feet wide shall be provided to the rear or side of all lots to be used for business uses. Alleys may be required by the Planning and Zoning Commission in cluster housing subdivisions. Dead-end alleys shall not be allowed; L-shaped alleys shall be beveled 25 feet at the inside of the "L".
- (k) *Public use and service areas.* Due design consideration shall be given to the allocation of areas suitably located and of adequate size for playgrounds and parks for local or neighborhood use as well as public service areas. Specific consideration shall be given to corners, islands or other special locations designed for school bus loading purposes.
- (l) *Public open spaces.* Where a proposed school, neighborhood park or recreation area shown on the master plan is located in whole or in part in the applicant's subdivision, the Planning and Zoning Commission may require as a condition of final approval that such space within the subdivision be reserved and not developed for a period not to exceed three years from the date of such final approval so that within such period the appropriate public agency may acquire such land in the manner provided by law and before it is developed for some other purpose. If it is not so acquired and no legal action is filed by such public agency within such period, such reservation shall be of no further effect.
- (m) *Easements for utilities.* Except where alleys are provided for the purpose, utility easements shall be not less than ten feet in width for maintenance and 15 to 20 feet in width for construction. These easements shall be provided along rear or side lot lines where necessary for use in constructing and maintaining wires, conduits, storm sewers, sanitary sewers, surface drainage, gas mains, water mains,

electrical lines and other public utilities reasonably required. All utilities shall be placed underground. No building shall be erected on such easement. All final plats should be accompanied with evidence that all utility companies and the telephone company concur, and easements indicated on the plat are suitable for their servicing of the area.

(n) *Relationships of wells and septic tanks.* No well in any subdivision shall be placed within 100 feet of any existing septic tank or drainage field, and no septic tank or field shall be placed within 100 feet of any existing well. These distances shall be measured horizontally at the surface of the ground.

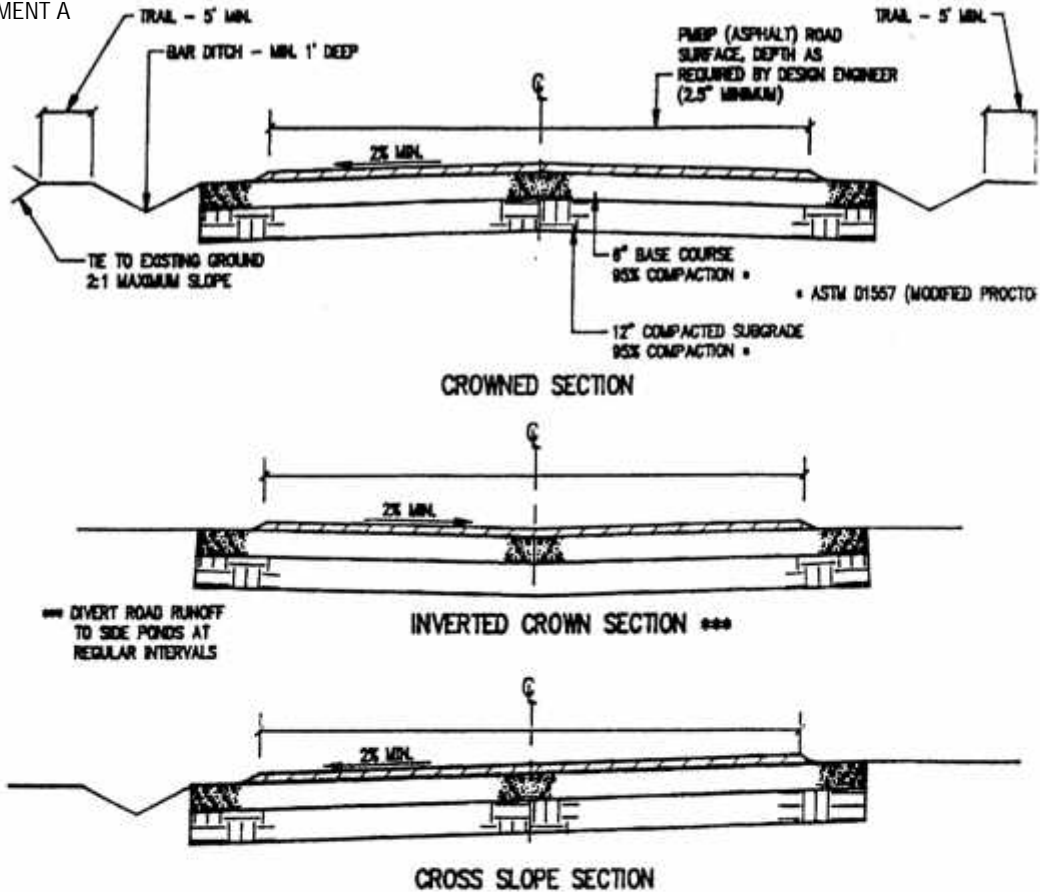
(o) *Drainage courses.* For land to be subdivided westerly from the Corrales main canal, where storm water from adjacent areas naturally passes through a subdivision, adequate provision shall be included in the facilities to route the storm water through the subdivision to its natural outlet, including necessary easements and provision for lining and checking the rainways, if open, for the installation, or provision for the installation, of storm sewer conduit.

A report by a civil engineer registered in the State must accompany the preliminary plat of a subdivision giving the quantity, velocity and depth of flow in all drainage courses at points of entering and leaving the subdivision and at key points within the subdivision for flows anticipated, after development of the area, from floods with an average recurrence interval of 100 years. The effect of such flows at these points on hydraulic structures, streets, street intersections, and private structures should be presented in the report. Any open channel must be structurally lined with adequate checks to prevent excessive velocities and volume of flow.

(p) *Erosion.* No subdivider shall remove or permit to be removed the existing ground cover in the subdivision without making provisions to prevent wind and/or water erosion and resultant damage to adjacent properties. In addition, subdividers may be required to provide restrictive covenants which shall prohibit unnecessary removal of ground cover.

History: Ord. No. 63, §5, adopted 1-13-76; Ord. No. 142, §1, adopted 5-14-85; Ord. No. 264, §1, adopted 12-14-93; Ord. No. 07-08 §5, adopted 6-26-07; Ord. No. 07-016, adopted 11-13-07; Ord. No. 09-006, adopted 5-19-09.

ATTACHMENT A



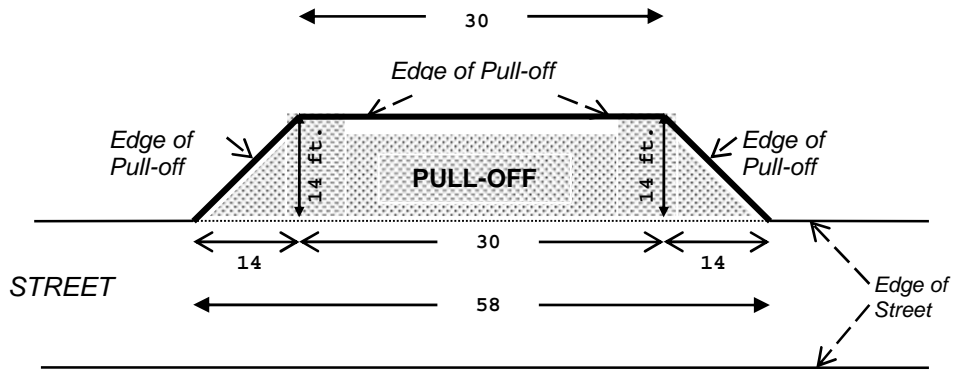
| R/W | MINIMUM RECOMMENDED WIDTHS | | | | NOTES |
|----------|------------------------------------|--------------------|-----------|--------|--|
| | ROAD SURFACE | COMPACTED SHOULDER | BAR DITCH | TRAILS | |
| 30' | 18' | 1' | - | 5' | ENGINEER BAR DITCHES FOR GRADE AND DRAINAGE AREA |
| 40' | 22' | 1' | 3' | 5' | |
| 50' | 24' | 2' | 4' | 5' | |
| 60' | 28' | 4' | 5' | 5' | |
| 70'-100' | AS DETERMINED DURING PLAT APPROVAL | | | | |

DEPTHS AND MATERIALS APPLY TO ALL SECTIONS. DESIGN ENGINEER SHALL CERTIFY THAT CONSTRUCTION WAS COMPLETED TO DESIGN STANDARDS AND SUBMIT TEST RESULTS TO THE VILLAGE.

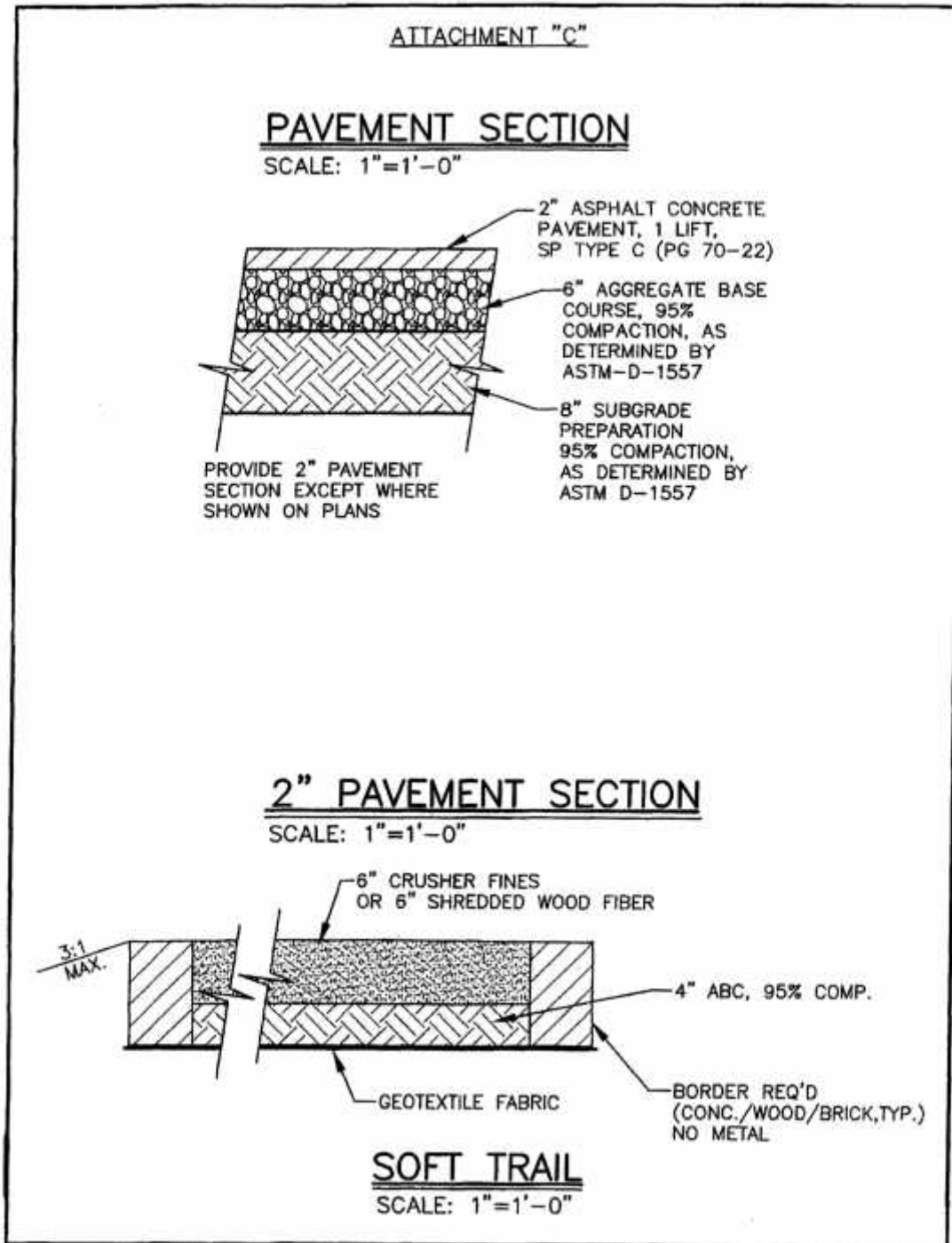
NOTES:

- FOR SUBDIVISIONS LESS THAN 10 ACRES, PMEP ROAD SURFACING IS NOT REQUIRED PROVIDED RECYCLED ASPHALT OR OTHER NONE DUST PRODUCING BASE COURSE MATERIAL IS USED FOR CONSTRUCTION AND ENGINEERED FOR TRAFFIC CONDITIONS.
- TRAILS TO BE PROVIDED FOR ALL ROADS AND SECTION TRAILS MAY BE ON ONE OR BOTH SIDES DEPENDING UPON SUBDIVISION AND ROAD LAYOUTS.

**MINIMUM ROAD SECTIONS
"DEDICATED PUBLIC ROADWAYS"**



ATTACHMENT B
STREET PULL-OFF DIAGRAM
(Not to Scale)



Section 18-82. Density Requirements

(a) *Lot size.* No lot shall be created through subdivision, including summary plat, in any zone that is less than one acre (43,560 square feet) in the A-1 zoned area, or two acres (87,120 square feet) in the A-2 zoned areas unless otherwise specifically allowed in the Village's Comprehensive Zoning Ordinance. Every lot created shall have a minimum of one or two acre lot size consistent with the minimum lot size and dimensions as provided for in the Comprehensive Zoning Ordinance for the applicable zone where the lot is proposed.

(b) *Density.* Major subdivisions are any subdivisions not classified as minor or intermediate. These subdivisions shall not have a greater density than one single-family dwelling unit per net one acre in the A-1 zoned areas, or one single-family dwelling unit per net two acres in the A-2 zoned areas. "Net acreage" is defined as any amount of acreage remaining after required dedications.

Intermediate subdivisions are any subdivisions:

- (1) Consisting of land that was subdivided, platted or created, by notarized deed or instrument of transfer, in accordance with the laws of the State of New Mexico and ordinances of the Village if such land division were created prior to the date of the enactment of Ordinance No. 293.
- (2) Not containing more than ten acres of land.

The Planning and Zoning Commission will review and approve intermediate subdivisions, if all applicable ordinances and regulations are complied with, using gross acreage instead of net acreage. "Gross acre" is defined as the amount of acreage to include required dedications.

A "single-family dwelling unit" shall be defined as a unit that houses persons related by blood or marriage or which consists of not more than five unrelated persons. This provision in no way prohibits the use of cluster housing in the A-1 zone as long as the subdivision is in compliance with the subdivision requirements as herein provided. Cluster housing will not be permitted in the A-2 zone.

History: Ord. No. 63, §6, adopted 1-13-76; Ord. No. 195, §1, adopted 5-23-88; Ord. No. 202, §3, adopted 9-12-88; Ord. No. 293, adopted 7-9-96; Ord. No. 294, adopted 10-8-96; Ord. 09-006, adopted 5-19-09.

Section 18-83. Trust agreements.

Where a subdivision contains sewer, sewage treatment plants, water supply systems, park areas, or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit, and which the Village does not desire to or cannot maintain or serve, provision shall be made by provisions acceptable to the Village for the proper and continuous maintenance and supervision of such facilities by the lot owners in the subdivision.

History: Ord. No. 63, § 7(A), adopted 1-13-76; Ord. No. 09-006, adopted 5-19-09.

Section 18-84. Geohydrologic study.

Whenever a subdivider plans to subdivide land within the Village and plans a separate community water system using groundwater, a geohydrologic report regarding the groundwater supply and use shall be prepared by a registered professional engineer according to standards established by the office of the State Engineer. The approval of the report by the office of the State Engineer will be required before the final subdivision plat can be submitted to the Planning and Zoning Commission.

History: Ord. No. 63, § 7(B), adopted 1-13-76; Ord. No. 09-006, adopted 5-19-09.

Section 18-85. Soil or percolation tests.

Whenever required by the office of the State Engineer, the U.S. Soil Conservation Service, or the

State environment department, the subdivider will make and furnish such soil or percolation tests as may be required at his own expense.

History: Ord. No. 63, § 7(C), adopted 1-13-76; Ord. No. 09-006, adopted 5-19-09.

Section 18-86. Preliminary plat.

(a) *Submission for review.*

- (1) Any person or party proposing to subdivide land shall complete and submit a preliminary plat application, and fourteen (14) sets of all application materials as required in this section for review by the Planning and Zoning Administrator, the Village engineer, the Village attorney, and the Commission, and the required preliminary plat subdivision processing fees.
- (2) The complete preliminary plat application as approved for submittal by the Administrator and submittal materials shall be filed at least forty (40) days prior to the regularly scheduled Commission meeting at which the preliminary plat application shall be heard.
- (3) If sketch plan submission and approval has been required or submitted, a preliminary plat application must include proof by the subdivider that he has addressed and complied with all sketch plat requirements made by the Commission.

(b) *Preliminary plat requirements.* Unless waived by the Planning and Zoning Commission, the preliminary plat and accompanying documents shall include and accurately portray all items listed in section 18-79(c)(2) (sketch plan requirements), and in addition shall show at least the following:

- (1) Proof of financial responsibility on the part of the subdivider.
- (2) The location of all present property lines, projected section lines, streets, watercourses, and other existing features within the area to be subdivided and similar information regarding land immediately adjacent thereto. Buildings, wells and waste water disposal systems shall be shown on the property to be subdivided and on adjacent parcels, on a separate sheet titled "Site Plan."
- (3) The proposed location and width of all proposed streets, alleys, utility easements, and areas to be reserved for public use.
- (4) Existing utilities, drainage courses and culverts within the tract or on streets immediately abutting thereto; the location and size of the nearest water mains and sewer lines.
- (5) The title under which the proposed subdivision is to be recorded and the name of the land planner, engineer, registered land surveyor, the subdivider and the owner of the tract, with the address to which any notice is to be sent.
- (6) The layout, numbers and approximate dimensions of proposed lots.
- (7) The zoning classification and proposed use for the area being platted.
- (8) Proposed names for all streets in the area being platted.
- (9) Written and signed statements explaining how and when the subdivider proposes to provide and install all required sewer or other disposal of sanitary wastes, graveled roads, drainage structures and street name signs.
- (10) The legal description of the areas being platted and of each parcel of land proposed as part of the subdivision; legible copies of all prior plats that reflect the history of the land being subdivided,

showing how and when the existing lots were created, shall be provided by the subdivider.

- (11) a. Contours referred to the National Geodetic Survey (formerly U.S. Coast and Geodetic Survey) datum with elevation contours shown at not more than one (1) foot intervals on slopes up to eight percent (8%), not more than two (2) foot intervals on slopes between eight percent (8%) and fifteen percent (15%), and not more than five (5) foot intervals on slopes of fifteen percent (15%) or greater. In addition, all areas with slopes greater than eight percent (8%) must be differentiated through shading, tone, color, or line weight; and all areas with slopes of fifteen percent (15%) or greater must be separately differentiated through shading, tone, color, or line weight. Slopes greater than fifteen percent (15%) shall not be disturbed. If there are no slopes greater than fifteen percent (15%) in the area to be platted, an affidavit to that effect, signed and sealed by the surveyor, shall be placed on the preliminary plat.
 - b. Land east of the Corrales Main Canal shall be exempt from the requirement to submit a topographic survey unless requested by the Commission or the Administrator; an affidavit stipulating that the land has a one percent (1%) or less slope, signed and sealed by the surveyor or professional engineer preparing the plat, shall be placed on the plat.
- (12) The north point, scale (one inch equal to 100 feet) and date.
- (13) The acreage of the land to be subdivided.
- (14) Any restrictive covenants governing the subdivision.
- (15) Subsurface conditions on the tract, if required by the Planning and Zoning Commission, including such information as the location and results of tests made to ascertain subsurface soil, rock and groundwater conditions; depth to groundwater, soil percolation and any other subsurface conditions.
- (16) Such other information and material as may be applicable or required by ordinance or rules and regulations pertaining to utilities, services or streets within the Village or within the area of planning and platting jurisdiction.

(c) *Preliminary plat hearing.* The Commission shall hold a hearing upon the preliminary plat application and proposal not later than 60 days following submission of a completed application as determined by the Planning and Zoning Administrator. Notice of the hearing shall be given by the Planning and Zoning Administrator on behalf of the Commission by mailing a notice to the applicant at the address set forth on the preliminary plat application.

(d) *Action if proposed preliminary plat is not satisfactory.* If upon conclusion of the hearing under Subsection (c) of this section the Commission shall find that such preliminary plat does not satisfy the requirements of this article, the Commission may:

- (1) Approve the plat with conditions that must be met prior to the signature of the chairman of the Commission;
- (2) Deny the application for preliminary plat approval; or
- (3) Postpone taking action on the application for the purpose of obtaining corrections to the plat or for receiving additional information as requested by the Commission, for a maximum of two (2) times. If a preliminary plat application has been presented to the Commission for a hearing for approval a maximum of three (3) times, and it contains errors or omissions such that it does not meet the requirements of this article, it shall be denied; a new application and payment of all

applicable fees shall then be required for the preliminary plat to be brought forward for hearing at a future date.

(e) *Approval and form of preliminary plat.*

- (1) If upon conclusion of the hearing under Subsection (c) of this section the Planning and Zoning Commission shall find that such preliminary plat satisfies the requirements of this article, the chairman of the Commission shall sign and date approval thereof in substantially the following language, which shall have been previously placed on the plat:

“The proposed plan of subdivision as shown in the preliminary plat herein is approved and the Planning and Zoning Commission now is ready to receive the final plat of said subdivision for consideration.

_____ Date: _____
Chair, Planning & Zoning Commission”

- (2) One print of such preliminary plat so endorsed shall be returned to the subdivider by personal delivery or mail, and one print with such findings shall be placed in the files of the Commission.
- (3) A subdivider may be required to submit to the Commission an amended preliminary plat for the purpose of complying with any order of the Commission.

(f) *Reliance on existing regulations.* Unless the preliminary plat expires before submittal of a final plat based upon it, the applicant may rely on the ordinances, rules, regulations, plans, policies and procedures of the Village that were in effect on the date of preliminary plat approval, and consideration of the final plat shall be based upon such ordinances, rules, regulations, plans, policies and procedures as of the date of preliminary plat approval, regardless of any subsequent amendment, repeal, reinstatement, or other action of the Village which could affect the terms and conditions under which the preliminary plat was approved.

(g) *Expiration of preliminary plat approval.*

- (1) Approval of a preliminary plat shall expire one (1) year following the date of such approval by the Commission, unless within that period a final plat is submitted for consideration and approval by the Commission, or the applicant is granted an extension of time for submittal of the final plat as provided herein.
- (2) Upon timely application to the Commission, the Commission may for good cause shown, and in the Commission’s sole and absolute discretion, grant an extension or extensions of time for submittal of the final plat, provided that such extension or extensions shall not exceed a total of one (1) additional year beyond original expiration date of the preliminary plat. Such extension may be granted only if the Commission finds that:
- a. The extension of time is not detrimental to the public interest; and
 - b. The preliminary plat, as approved, is not in conflict with current Village ordinances, rules, regulations, plans, policies or procedures.
- (3) The Commission may, as a condition of granting any extension of time for final plat submittal following approval of the preliminary plat, require the subdivider to complete any or all subdivision improvements, public or private, that are shown in the preliminary plat, in a fully satisfactory manner, before a date certain set by the Commission.

- (4) Preliminary plat approval shall be null and void unless a complete final plat application, including all materials required to be submitted therewith, is submitted and accepted by the Village before the expiration date of such approval, including any extensions granted in accordance with this Subsection 18-86(g). The Village and its officers and employees shall have no liability whatever for failure of an applicant to complete all required submittals in a timely manner, including but not limited to a complete and satisfactory final plat and accompanying materials, and the completion of any subdivision improvements that may be required by the Commission.

History: Ord. No. 63, §8, adopted 1-13-76; Ord. No. 190, §4, adopted 4-11-88; Ord. No. 07-10 § 2, adopted 6-26-07; Ord. No. 09-006, adopted 5-19-09; Ord. No. 10-011, § 3, adopted 12-21-10.

Section 18-87. Final plat.

(a) *Preparation of final plat.* Receipt by the subdivider of a print of the preliminary plat approved by the Commission shall constitute authority for the subdivider to proceed with further plans and specifications for installation of infrastructure improvements. Applicant shall prepare a final plat application upon proof of compliance with the terms of the Commission's preliminary plat approval, all Village standards, this article, and any subdivision improvement agreements and private agreements which the subdivider may have entered into for the purposes of receiving preliminary plat approval. The final plat must be prepared by a surveyor licensed and registered in this State as required in NMSA 1978, § 3-20-2, and by a licensed engineer if required.

(b) *Final plat submission.*

- (1) Following preliminary plat approval and the presentation of proof by the subdivider that he has complied with all preliminary plat requirements, the subdivider shall complete and submit a final plat application and fourteen (14) sets of all application materials as required in this section for review by the Planning and Zoning Administrator, the Village engineer, the Village attorney, and the Commission.
- (2) The Commission shall hold a hearing on the final plat application not later than 60 days following the submittal of a completed final plat application. The application shall be deemed complete by the Planning and Zoning Administrator. For all proposed subdivision development outside the Village corporate limits, the applicant shall be responsible for simultaneously transmitting with the final plat application to the Village the required number of copies of the final plat application to the county administrator in the manner required by the applicable subdivision regulations of such county.
- (3) The Commission shall hold a hearing at which the applicant shall present the proposed development as shown on the final plat application and submittal. After the hearing, the findings of the Commission shall be made and the Commission shall note on the final plat application whether the plat has been approved in whole, approved with conditions, denied, or whether the applicant shall be required to submit an amended final plat application for the purpose of demonstrating that the applicant has complied with the orders of the Commission and the terms of the final plat approval.
- (4) Upon receipt of final unconditioned approval of the final plat by the Commission, and endorsement of the final plat by the chairman and secretary of the Commission, the Mayor and the Village Clerk, the Village shall receive the fee for filing from the applicant and file the plat in the office of the county clerk.

(c) *Contents of final plat.*

- (1) The final plat shall be in conformity with the requirements of applicable State statutes and shall

be an accurate drawing designating specifically the land so laid out, and particularly describing the portions thereof intended to be dedicated for public use. Such final plat shall be drawn in black ink to a scale of not more than 100 feet to the inch from an accurate survey. It shall contain one or more sheets of dimensions not exceeding 24 inches by 36 inches. If more than two sheets are submitted, an index sheet of the same dimensions shall be attached showing the entire subdivision on one sheet and the component areas on the remaining sheet.

(2) The final plat of the subdivision and accompanying documents shall show:

- a. Boundary lines with accurate distances and courses.
- b. Correct legal description which shall refer to permanent monuments, number of each lot in progression, and dimensions of same. All property corners shall be set with rebar and cap, or other acceptable materials, and identified as such on the final plat.
- c. Lines of all proposed streets and alleys with their widths and names.
- d. Accurate outline of any portions of the property intended to be dedicated for public use or for the use of the owners of the lots fronting or adjacent to the land, together with dimensions of same.
- e. Line of departure of one street from another.
- f. Names and widths of adjoining streets and alleys abutting the subdivision drawn in dashed lines.
- g. All lots designated by numbers or letters, and streets, avenues and other grounds designated by names, letters or numbers.
- h. Building setback lines shown by narrow dashed lines, if required.
- i. Location of all easements provided for public use, services or utilities.
- j. All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements and other areas for public or private use.
- k. Radii, arcs or chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners.
- l. Location of all survey monuments and their descriptions.
- m. Name of the subdivision and scale of the plat, north point, name of the owner or owners, name of subdividers and date.
- n. Certificate of registered land surveyor attesting to the accuracy of the survey and the correct location of all monuments shown.
- o. Certificate of licensed engineer attesting to the adequacy of, and in compliance with, engineering provisions and requirements.
- p. Acknowledgement. Every plat shall contain a statement that the land being surveyed, and the streets, alleys, easements, drainageways and other public ways appearing on the plat are with the free consent and in accordance with the desire of the undersigned owner and proprietor of

the land and are dedicated to the public use and shall be acknowledged by all fee simple owners and any contract sellers and purchasers.

- q. Certification. A certification by a title or abstract company, or a duly authorized attorney, that there are no delinquent taxes, suits, actions at law, easements, restrictive covenants or rights-of-way affecting the property except those stated on the plat.
- r. Affidavit. The plat shall also contain an affidavit by a registered land surveyor or registered engineer that the proposed subdivision does lie within the planning and platting jurisdiction of the Village.
- s. Separately signed approval blocks with the names of each utility company involved, typed under the signature, along with the date of each signature. For lands east of the Main Canal, a signature and date of approval block shall be provided for the Middle Rio Grande Conservancy District.

(d) *Required improvements.*

- (1) Upon receipt of a final plat and prints thereof from the subdivider, the Planning and Zoning Administrator shall refer the final plat with such letter of transmittal to the Planning and Zoning Commission at its next regular session and shall report on the following:
 - a. Any improvements that may be required by this article have been constructed in a satisfactory manner in accordance with the minimum standards established by the Village as approved by the Village engineer.
 - b. In lieu of such prior construction, the subdivider has filed with the Village Clerk a duly executed performance bond with a financially qualified surety in an amount equal to 100 percent of the cost of the total public improvements and on all of the property abutting each such street or other locations within the subdivision.
 - c. The developer has presented copies of signed contracts containing adequate financial assurance to the Village providing for installation of public improvements which may be required in a satisfactory manner in accordance with the minimum standards established by the Village; such contracts shall be cancelable only upon disapproval of the plat by the Planning and Zoning Commission.
 - d. The developer has entered into an agreement or contract with the Village providing for the installation of such improvements and pledging the properties of the subdivision as guarantee that such improvements will be installed. Such contract may provide that the subdivider pay for such public improvements made pursuant to the contract with the Village on a block to block basis as the subdivision is developed, providing for payment for such improvements as constructed, and the release of lien placed upon such properties by the instrument of the Village. Payment to the Village for these purposes shall be made at the time of development even though the entire improvements, or a portion thereof, may be required to be deferred, and such money shall be held in escrow by the Village as a trust fund for such purposes.
- (2) The Planning and Zoning Commission shall approve or disapprove a final plat within 35 days of the day that the provisions of this section have been complied with by the developer. If the Planning and Zoning Commission does not act within 35 days, the plat is deemed to be approved and, upon demand, the Planning and Zoning Commission shall issue a certificate approving the plat. The person seeking approval of the plat may waive this requirement and agree to an extension of this time period. The reason for disapproval of a plat shall be entered upon the

recordings of the Planning and Zoning Commission.

(e) *Action if proposed final plat is not satisfactory.* If upon conclusion of the hearing under Subsection (b) of this section the Commission shall find that such final plat does not satisfy the requirements of this article, the Commission may:

- (1) Approve the plat with conditions that must be met prior to the signature of the chairman and secretary of the Commission and the Mayor and Village Clerk;
- (2) Deny the application for final plat approval; or
- (3) Postpone taking action on the application for the purpose of obtaining corrections to the plat or for receiving additional information as requested by the Commission, for a maximum of two (2) times. If a final plat application has been presented to the Commission for a hearing for approval a maximum of three (3) times, and it contains errors or omissions such that it does not meet the requirements of this article, it shall be denied; a new application and payment of all applicable fees shall then be required for the preliminary and final plats to be brought forward for hearings at a future date.

(f) *Approval of final plat.* When the Planning and Zoning Commission has determined that the plat conforms to the previously approved preliminary plat, including any condition which may have been required by the Planning and Zoning Commission in approving such preliminary plat, and that such final plat meets all requirements of this article, the following shall be printed or stamped upon the original plat and prints thereof and signed by the chairman and secretary of the Planning and Zoning Commission:

This final plat of subdivision is approved, but such approval does not constitute acceptance for maintenance purposes of any streets, alleys or other dedicated lands.

VILLAGE OF CORRALES

By _____ Date: _____
Chairman, Planning and Zoning Commission

By _____ Date: _____
Secretary, Planning and Zoning Commission

By _____ Date: _____
Mayor, Village of Corrales

By: _____ Date: _____
Village Clerk

History: Ord. No. 63, §9, adopted 1-13-76; Ord. No. 190, §6, adopted 4-11-88; Ord. No. 09-006, adopted 5-19-09; Ord. No. 10-011, § 4, adopted 12-21-10.

Section 18-88. Summary procedure.

(a) *Authority and applicability.* In accordance with the authority provided by NMSA 1978, § 3-20-8, an applicant may request and the Commission may grant approval of a subdivision pursuant to a final summary plat incorporating all of the requirements for preliminary and final plats as provided in this article, without the need for prior separate approval of a preliminary plat. This summary procedure shall be applicable to subdivisions or resubdivisions where the combination or recombination of portions of previously platted lots does not increase the total number of lots and to subdivisions where a single parcel is divided into two parcels in a one-time-only platting action.

(b) *Summary plat submittal.* The applicant seeking approval of a subdivision or resubdivision under this summary procedure shall submit a completed final plat application. The proposed summary plat and all accompanying materials shall:

- (1) Be clearly identified as submittals pursuant to the summary plat procedure;
- (2) Be prepared in accordance with the standards for plats, data and related materials that are required for preliminary plat approval and for final plat approval as provided in this article; and
- (3) Comply fully and completely with all requirements for preliminary plat approval and final plat approval as provided in this article.

(c) *Hearing, approval and recordation of summary plat.* At hearing, the Commission may approve the proposed summary plat, or may deny it if the Commission determines that the proposed subdivision does not qualify for summary plat approval, the proposed summary plat and accompanying materials are incomplete, or the proposed subdivision fails to meet all standards of this article and other applicable ordinances and policies of the Village. Upon approval, the Village will record the summary plat in the office of the county clerk in accordance with the provisions of Subsection 18-79(e)(3).

History: Ord. No. 63, §10, adopted 1-13-76; Ord. No. 237, §1, adopted 2-27-91; Ord. No. 253, adopted 4-27-93; Ord. No. 06-11, adopted 8-22-06; Ord. No. 07-11 § 1, adopted 6-26-07; Ord. No. 09-006, adopted 5-19-09; Ord. No. 10-011, § 5, adopted 12-21-10.

Section 18-89. Improvements.

The following improvement procedures will be required unless waived by the Planning and Zoning Commission:

- (1) *Completion of improvements.* Plans for improvements shall be prepared by a qualified engineer registered in accordance with the laws of the State. The improvements listed in Subsection (2) of this section shall be installed pursuant to the method decided upon under section 18-87(d).
- (2) *Required improvements.* The improvements to be installed shall include the following:
 - a. *Permanent markers.* All subdivision boundary corners shall be marked with a permanent monument. A permanent monument shall be deemed to be concrete with a minimum dimension of four inches, extending three feet below the surface of the ground, or steel pipe or rebar firmly imbedded in concrete which extends at least three feet below the surface of the ground. Should conditions prohibit the placing of monuments on line, offset marking will be permitted, provided however, the offset courses and distances are shown on the plat. A permanent benchmark shall be accessibly placed within the subdivision, the elevation of which shall be referred to the National Geodetic Survey (formerly U.S. Coast and Geodetic Survey) datum and accurately noted on the subdivision plat.
 - b. *Drainage.* Adequate provision shall be made for drainage of storm water. Drainage improvements shall maintain any natural watercourse and shall prevent the collection of water in any low spot. No lot shall be platted to obstruct natural water flow. Storm water drainage shall not be permitted to combine with sanitary sewers. Lined drainage channels may be required and provided with required checks or be installed in concrete storm sewer conduit in accordance with the requirements noted in the master plan and as required by the Governing Body for storm sewers. Drainage structures must be placed on all arroyos where roads intersect them. Drainage structures shall be based on 1.25 inches of rain in one hour as the standard, and may be either of corrugated metal or concrete.

- 3) *Additional improvement standards.* Additional standards for design, construction, specifications and inspection of street improvements, utilities, street name signs, and drainage facilities may be required by the Village. Such standards, rules and regulations shall be approved by the Governing Body and be on file in the Village Clerk's office.
- 4) *Completion of improvements.* No building permit for construction within the subdivision, except permits for construction of the improvements, shall be issued until all improvements have been completed to the satisfaction of the Village.

History: Ord. No. 63, §11, adopted 1-13-76; Ord. No. 09-006, adopted 5-19-09; Ord. No. 10-011, § 6, adopted 12-21-10.

Section 18-90. Modification of requirements.

(a) Where in the case of a particular proposed subdivision it can be shown that strict compliance with the requirements of this article would result in extraordinary hardship to the subdivider because of unusual topography or other non-self-inflicted condition, or that such requirements would result in inhibiting the achievement of the objectives of this article, the Planning and Zoning Commission may modify or waive such requirements so that substantial justice may be done and the public interest secured; provided, that such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of this article or any utility regulation or other requirement of the Village or of interfering with carrying out the master plan.

(b) Application for any variance shall be submitted in writing by the subdivider at the time the preliminary plat is filed and shall state fully the grounds for the application and the facts relied upon by the subdivider. The Planning and Zoning Commission shall give its written decision at the time of its approval or disapproval of such preliminary plat.

(c) In no case shall any variation or modification from the requirements of this article be contrary to the mandatory requirements of State law, nor be more than a minimum easing of the requirements. In no case shall it have the effect of reducing the traffic capacity of any street below that shown on the master plan or be in conflict with Article II, zoning, of this chapter.

(d) In granting variances and modifications from the requirements of this article, the Planning and Zoning Commission may require such conditions as will, in its judgment, secure substantially the objective of the requirements so varied or modified.

History: Ord. No. 63, §12, adopted 1-13-76; Ord. No. 09-006, adopted 5-19-09.

Section 18-91. Appeals.

Any party aggrieved by an action of the Planning and Zoning Commission on a final plat or other final decision of the Commission may take an appeal of such action to the Governing Body by submitting a written notice of appeal to the Village Clerk within 20 days after the date of the Commission decision. The day of determination by the Commission is not included in the 20-day period for filing of appeal, and if the 20th day falls on a Saturday, Sunday or national holiday, the next working day is considered as the deadline for filing the notice of appeal. Such notice of appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or wherein the Commission decision was not supported by substantial evidence.

History: Ord. No. 63, §13, adopted 1-13-76; Ord. No. 09-006, adopted 5-19-09.

Section 18-92. Approval necessary for utility protection.

Until a final plat has been approved, any official of the Village or a public utility company who shall serve or connect the land within the subdivision and within the planning and platting jurisdiction of the

Village with any public utility such as water, sewer, electric or gas is guilty of a misdemeanor. The Village may require any utility connected in violation of this section to be disconnected. This article shall not prohibit the extending of the utilities through an area irrespective of its platting and planning status after review and approval by the Planning and Zoning Commission.

History: Ord. No. 63, §14, adopted 1-13-76; Ord. No. 09-006, adopted 5-19-09.

Section 18-93. Fees.

(a) Since the Village administrative staff, the Village engineer, the Village attorney, and the Commission are required to review proposed plats, public notices, attend and conduct public hearings, make property investigations, and devote time and incur substantial costs involving and incidental to acting upon and processing of subdivision applications, fees will be charged to all subdivision applicants: The Governing Body, by resolution, may determine the amounts of such fees and may from time to time amend them. The fees in effect at the time of submittal of preliminary plat application shall be the fees charged for preliminary plat application; fees in effect at the time of final plat submittal shall be the fees charged for the final plat application.

(b) All costs incurred relating to notice of the hearing including, but not limited to, publication and certified mailings shall be paid for by the applicant.

(c) All costs incurred for review of the preliminary plat and final plat submittals by the Village engineer shall be paid for by the applicant.

Ord. No. 63, §15, adopted 1-13-76; Ord. No. 190, §7, adopted 4-11-88; Ord. No. 384, adopted 7-13-04; Ord. No. 09-006, adopted 5-19-09; Ord. No. 10-011, § 7, adopted 12-21-10.

Section 18-94. Changes and amendments to article.

The land subdivision regulations may be changed and amended from time to time by the Governing Body, provided that such changes or amendments shall not become effective until after a public hearing has been held. Before such a hearing, notice of such hearing must be legally advertised at least 15 days prior thereto.

History: Ord. No. 63, § 6, adopted 1-13-76; Ord. No. 09-006, adopted 5-19-09.

Sections 18-95 to 18-115. Reserved.

ARTICLE IV. FLOOD HAZARD PREVENTION

Division 1. Generally

Cross reference: Areas subject to flooding, § 18-44; State law reference – Authority to promulgate flood regulations, NMSA 1978, § 3-41-1 et seq.

Section 18-116. Statutory authorization.

The legislature of the State of New Mexico, pursuant to Section 3-18-7, NMSA 1978, has authorized and requires local governmental units to adopt regulations designed to minimize flood losses. The provisions of this article have been adopted in accordance with the legislative authority so granted.

History: Ord. No. 115, Article 1, § A, adopted 12-14-82; Ord. No. 08-003, § 1, adopted 3-11-08.

Section 18-117. Findings of fact.

The Governing Body finds and determines that:

- (1) 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.
- (2) The 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, flood-proofed, or otherwise protected from flood damage.

History: Ord. No. 115, art. 1, § B, adopted 12-14-82; Ord. No. 08-003, § 2, adopted 3-11-08.

Section 18-118. Statement of purpose and scope.

(a) 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 expenditures 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 flood prone 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 prone area.

(b) Nothing in this article is intended or shall be deemed to amend, repeal, or abrogate any provision contained in Chapter 18, Article V (Terrains and Storm Water Management). In the event of any inconsistency or conflict between the provisions of this article and those of Chapter 18, Article V, the standard or requirement that is more restrictive or more protective of property and of public health, safety and welfare shall prevail.

History: Ord. No. 115, art. 1, § C, adopted 12-14-82; Ord. No. 08-003, § 3, adopted 3-11-08.

Section 18-119. 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 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, stream 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.

History: Ord. No. 115, art. 1, § D, adopted 12-14-82.

Section 18-120. Definitions.

As used in this article and in all maps reports, and other documents adopted by the Village under this article, the following words and phrases shall have the meanings stated herein, unless the context clearly indicates a different meaning, such meanings to be equally applicable to the singular and plural forms of these defined words and phrases. Unless specifically defined in this section, words or phrases used in this article shall be interpreted to give them the meaning they have in most common usage and to give this article its most reasonable application:

Appeal means the request for a review of the floodplain manager's interpretation of any provision of this article or a request for a variance.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community flood insurance rate map (FIRM) with a one percent or greater annual 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 of flow may not be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means 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 ratemaking 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.

Basement means any area of a building having its floor subgrade (below ground level) on all sides.

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 purpose of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's 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 this article.

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 either final site grading or the pouring of concrete pads).

Flood or 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, or
- (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 the community, issued by the Federal Emergency Management Agency where the areas within the boundaries of special flood hazards have been designated as Zone A.

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

Flood insurance study. See *Flood elevation study*.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (See 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 and local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodplain manager means the person or persons, each of whom shall be duly certified pursuant to the State-certified floodplain manager program, designated by the Village to administer the provisions of this article in accordance with Section 3-18-7(C), NMSA 1978, and includes the Planning and Zoning Administrator (if he or she is duly certified) and such other duly certified person or persons as the Planning and Zoning Administrator may designate from time to time.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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. See *Regulatory floodway*.

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 ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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 man-made 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 of 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 connected 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.

New construction means, for the purpose 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 regulations adopted by a community and includes any subsequent improvements to such structures.

New 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 on or after the effective date of this article.

Recreational vehicle means a vehicle which is (1) built on a single chassis; (2) four hundred (400) square feet or less when measured at the largest horizontal projections; (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.

Regulatory floodway means 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.

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 (Pub. L. 97-348)), includes substantial improvement 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 a structure on a site, such as the pouring of slabs or footings, the installation of piles, 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 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 as 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 that alteration affects the external dimensions of the building.

Structure means for floodplain management purposes 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 “start of construction” of the improvement. The 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 code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure 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 (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

History: Ord. No. 115, art. 2, adopted 12-14-82; Ord. No. 188, § 1, adopted 2-15-88; Ord. No. 08-003, § 4, adopted 3-11-08; Cross reference: Definitions generally, § 1-2.

Section 18-121. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the Village.

History: Ord. No. 115, art. 3, § A, adopted 12-14-82.

Section 18-122. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the scientific and engineering report entitled “The Flood Insurance Study for Sandoval County, including the Village of Corrales, Community No.: 350094; Map Panels: 35043C1894D, 1913D, 1914D, 2106D, 2107D, 2108D, 2109D, 2126D, 2127D, and 2128D,” dated March 18, 2008, with the most effective Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated March 18, 2008 and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

History: Ord. No. 115, art. 3, § B, adopted 12-14-82; Ord. No. 08-003, § 5, adopted 3-11-08.

Section 18-123. Compliance required.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

History: Ord. No. 115, art. 3, § D, adopted 12-14-82; Ord. No. 08-003, § 6, adopted 3-11-08.

Section 18- 124. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restriction shall prevail.

History: Ord. No. 115, art. 3, § E, adopted 12-14-82; Ord. No. 08-003, § 7, adopted 3-11-08.

Section 18- 125. Interpretation.

In the interpretation and application of this article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally constructed in favor of the Governing Body; and

(3) Deemed neither to limit nor repeal any other powers granted under State statutes

History: Ord. No. 115, art. 3, § F, adopted 12-14-82.

Section 18-126. 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.

History: Ord. No. 115, art. 3, § G, adopted 12-14-82; Ord. No. 08-003, § 8, adopted 3-11-08.

Section 18-127. Penalty for violation of article.

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 statutes, ordinances, rules, and regulations. Any person, whether as principal, owner, agent, employee or otherwise, who violates any provision of this article shall, upon conviction, be punished in accordance with Section 1-6. Each day of violation may be considered a separate offense. Nothing contained in this article shall be deemed to prevent the Village from taking such other lawful action as, in the judgment of the Village and its officers, may be deemed necessary and appropriate to remedy any violation of this article.

History: Ord. No. 115, art. 5, § F, adopted 12-14-82; Ord. No. 08-003, § 9, adopted 3-11-08.

Sections 18-128 to 18-140. Reserved.**Division 2. Administration**

Cross reference: Administration, Ch. 2.

Section 18-141. Designation of floodplain manager.

The floodplain manager is hereby appointed to administer and implement the provisions of this article and other appropriate sections of Chapter 44 of the Code of Federal Regulations (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

History: Ord. No. 115, art. 5, § A, adopted 12-14-82; Ord. No. 08-003, § 10, adopted 3-11-08.

Section 18-142. Duties and responsibilities of floodplain manager.

Duties and responsibilities of the floodplain manager under this article shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) Review permit applications to determine whether action is needed to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve, or deny all applications for development permits required by this article.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, State or local governmental agencies (including agencies designated in Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1344) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain manager shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the New Mexico Department of Public Safety, Office of Emergency Management prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is not diminished.
- (8) When base flood elevation data has not been provided in accordance with Section 18-122, the floodplain manager 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 Division 3 of this article.
- (9) When a regulatory floodway has not been designated, the floodplain manager 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 C.F.R. Chapter 1, § 65.12, of the National Flood Insurance Program regulations, the floodplain manager may approve certain development in Zones A1-30, AE, and AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the floodplain manager first completes all of the provisions required by 44 C.F.R. § 65.12.

History: Ord. No. 115, art. 5, § B, adopted 12-14-82; Ord. No. 188, § 2, adopted 2-15-88; Ord. No. 08-003, § 11, adopted 3-11-08.

Section 18-143. Floodplain development permit - required.

A floodplain development permit shall be required to ensure conformance with the provisions of this article.

History: Ord. No. 115, art. 3, § C, adopted 12-14-82; Ord. No. 08-003, § 12, adopted 3-11-08.

Section 18-144. Permit procedures.

(a) Application for a floodplain development permit shall be presented to the floodplain manager on forms furnished by the Village and may include, but not be limited to, plans in triplicate drawn to scale showing the locations, dimensions, and elevations of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing 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 proposed structures;
- (2) Elevation, in relation to mean sea level, to which nonresidential structures shall be flood-proofed;
- (3) A certificate from a registered professional engineer that any nonresidential floodproofed structure shall meet the floodproofing criteria of Section 18-157(2);
- (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
- (5) Maintain a record of all such information in accordance with Section 18-142(1).

(b) Approval or denial of a floodplain development permit by the floodplain manager 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 material 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, electrical, 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; and
- (8) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

History: Ord. No. 115, art. 5, § C, adopted 12-14-82; Ord. No. 137, adopted 9-25-84; Ord. No. 08-003, § 13, adopted 3-11-08.

Section 18-145. Variances and appeal procedures.

(a) The Planning and Zoning Commission as established by the Village shall hear and render judgment on requests for variances from the requirements of this article.

(b) The Planning and Zoning 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 floodplain manager in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the Planning and Zoning Commission may appeal such decision to the Governing Body and then finally to the courts of competent jurisdiction.

(d) The floodplain manager 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 section.

(f) 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 18-144(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 and Zoning Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article and Chapter 18, Article V.

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) 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 the variance is the minimum necessary to preserve the historic character and design of the structure.

(j) Prerequisites for granting variances:

(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, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing 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.

(k) Variances may be issued by the Village for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in subsections (a) through (i) of this section are met, and (ii) 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.

History: Ord. No. 115, art. 5, § D, adopted 12-14-82; Ord. No. 08-003, § 14, adopted 3-11-08.

Section 18-146. Fees.

Fees for development permits as set forth below shall be determined and adopted by resolution of the Governing Body and may be amended from time to time by resolution of the Governing Body:

- (1) New residential or nonresidential construction with base flood elevation grade certification furnished by the Village.
- (2) New residential or nonresidential construction with other certification.
- (3) Manufactured homes with base flood elevation grade certification set by the Village.
- (4) Manufactured homes with other certification.
- (5) Manufactured home tie-down design requirements will not be provided by the Village. Certification by a licensed architect or engineer must be provided.

History: Ord. No. 115, art. 5, § E, adopted 12-14-82; Ord. No. 08-003, § 15, adopted 3-11-08.

Sections 18-147 to 18-155. Reserved.

Division 3. Standards for Flood Hazard Reduction

Section 18-156. General standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or 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 resistant to flood damage; provided, however, that adobe and other earthen materials as defined in the Earthen Building Materials Code are specified as acceptable building materials;
- (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) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and
- (7) On-site waste disposal systems shall be located to avoid impairment of them or contamination from them during flooding.

History: Ord. No. 115, art. 4, § A, adopted 12-14-82; Ord. No. 188, §§ 3, 4, adopted 2-15-88; Ord. No. 08-003, § 16, adopted 3-11-08.

Section 18-157. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 18-122, Section 18-159(c) or Section 18-142, 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 floodplain manager that the standard of this subsection as proposed in Subsection 18-144 is satisfied.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation 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 the design and methods of construction 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 submitted to and maintained by the floodplain manager.
- (3) *Enclosures.* New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which 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 on separate walls 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; and
 - 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) *Manufactured homes.*

- a. All manufactured homes to be placed within Zone A on the Village'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.
 - b. All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the Village's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufacture home has incurred "substantial damage" as a 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.
 - c. All manufactured homes that are placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the Village's FIRM that are not subject to the provisions of the preceding subsections (a) and (b) shall be elevated so that either:
 - (i) the lowest floor of the manufactured home is at or above the base flood elevation; or
 - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and is securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) *Recreational vehicles.* Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the Village's FIRM shall (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Section 18-144(a) and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this Section 18-157. 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) *Floodways.* Located within areas of special flood hazard established in Section 18-122 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 developments, within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments would not result in any increase in flood levels within the Village during the occurrence of the base flood discharge.
 - (b) If Subsection (6)(a) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.

- (c) Under the provisions of 44 C.F.R. Chapter 1, § 65.12, of the National Flood Insurance Program regulations, the Village may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the Village first completes all of the provisions required by 44 C.F.R. § 65.12.

History: Ord. No. 115, art. 4, §B, adopted 12-14-82; Ord. No. 137, adopted 9-25-84; Ord. No. 08-003, § 17, adopted 3-11-08.

Section 18-158. Standards for areas of shallow flooding.

Located within the areas of special flood hazard established in Section 18-122 are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity of flow may not be evident. Such flooding is characterized by ponding or sheet flow; therefore, within these areas the following provisions apply:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- (2) All new construction and substantial improvements of nonresidential structures shall:
 - (a) Have the lowest floor, including basement, elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or,
 - (b) 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 and effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the floodplain manager that the standards of this section, as proposed in Section 18-144(a), are satisfied.
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

History: Ord. No. 115, art. 4, § C, adopted 12-14-82; Ord. No. 137, adopted 9-25-84; Ord. No. 08-003, § 18, adopted 3-11-08.

Section 18- 159. Standards for subdivision proposals.

- (a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 18-117, 18-118 and 18-119.
- (b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of sections 18-143, 18-144, and the provisions of Division 3 of this article.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty lots or five acres, whichever is lesser, if not otherwise provided pursuant to Section 18-122 or Section 18-142(8).

(d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public and private utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

History: Ord. No. 115, art. 4, § D, adopted 12-14-82; Ord. No. 08-003, § 19, adopted 3-11-08; Cross reference: Subdivisions, § 18-76 et seq.

ARTICLE V. TERRAINS AND STORM WATER MANAGEMENT

Section 18-160. Purpose.

The purpose of this article is to protect, maintain and enhance the health, safety, and general welfare of the citizens and natural environment of the Village. The following goals and objectives shall be considered during the design and planning process for all proposed developments subject to these regulations:

- (a) Ensure sound and orderly development of the natural terrain;
- (b) Protect life and property from the dangers of flooding and the hazard of improper cuts and fills;
- (c) Minimize erosion and sedimentation;
- (d) Minimize destruction of the natural landscape;
- (e) Protect the scenic character of the Village of Corrales from the visual blight of indiscriminate cuts and fills and vegetation removal resulting from extensive grading and utility scars;
- (f) Treat storm water runoff as a valuable natural resource in the Village of Corrales, a community that is prone to drought, by encouraging water collection and infiltration on site;
- (g) Control the adverse impacts associated with accelerated storm water runoff on natural drainage ways, hillsides, and all structures due to increased development and impervious surfaces;
- (h) Minimize erosion and degradation of arroyo channels and improve the condition of the channel where possible;
- (i) Respect, protect, maintain, and restore natural drainage ways, wetlands, bosques, floodplains, steep slopes, riparian vegetation, and wildlife habitat areas;
- (j) Prevent storm water runoff from damaging acequias or other irrigation facilities; and,
- (k) Provide aesthetically pleasing solutions to storm water management and erosion control measures by integrating measures into the overall landscape and site design.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Section 18-161. Applicability.

(a) The requirements of this article shall apply to all lands within the Village that are located west of the Corrales Main Canal. The requirements of this article shall also apply to new development and

redevelopment projects that disturb greater than or equal to one acre, including projects disturbing less than one acre that are part of a larger common plan of development that in total will disturb an area greater than or equal to one acre, regardless of location in the Village. The provisions of Section 18-172 apply throughout the Village.

(b) Minimum standards and submittal requirements for terrain and storm water management are based on the type of project, as follows:

- (1) Grading permit applications, when required by this article or any other provision of the Village Land Use Ordinances, shall meet the minimum standards and submittal requirements in Section 18-164.
- (2) The approved final terrain and storm water plans, when required, shall be submitted with the application for building permit.
- (3) All construction projects shall comply with the objectives, intent, and minimum standards of this section including, without limitation:
 - a. New construction;
 - b. Reconstruction;
 - c. Demolition; and
 - d. Construction of roadways and drainage as approved in the subdivision process following approved grading and drainage plans.

(c) *Exemptions.*

New construction, remodeling, additions, or other alterations to existing structures and development identified in Section 18-164(a)(2) are exempt from the requirements of this section provided that they meet all of the following conditions:

- (1) Less than one thousand (1,000) square feet of total land area is disturbed;
- (2) No slopes greater than eight (8) percent are disturbed;
- (3) Existing drainage patterns on the property are not changed in a way that would increase the amount of storm water runoff leaving the property;
- (4) No cut slopes or fill exceeding 3 to 1 grade (3 horizontal to 1 vertical) are created, unless retained in accordance with a design certified by a professional engineer and approved by the Village Engineer; and
- (5) The applicant, by applying for this exemption, has not exceeded the thirty-five percent (35%) lot coverage limitation of the property.

(d) *Alternative compliance.*

Applicants may propose alternatives to standard storm water management techniques, so long as these alternatives allow the project to meet the minimum standards and general requirements of this section. Alternative techniques may be proposed that achieve improved environmental performance, including reduced storm water runoff, increased infiltration, reduced sedimentation and erosion, and for

aesthetic purposes. Proposals for alternative compliance to standard storm water management techniques shall be subject to review and recommendation by the Village Engineer in writing to the Planning and Zoning Commission. Applicants shall bear costs of engineering review whether the proposal for alternative compliance is approved or rejected.

(e) *Fees.*

All applications and permits required by this article shall not be processed without payment of an administrative fee to the Village by the applicant at the time of application. All fees are nonrefundable. A current fee schedule shall be maintained by the Administrator.

(1) All costs incurred for publication and certified mailings related to notice of a hearing shall be paid by the applicants.

(2) Any additional resubmittals shall be accompanied by the required application fees.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09; Ord. No. 11-009, adopted 5-10-11; Ord. No. 15-06, adopted 2-24-15.

Section 18-162. 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.

Words, terms, or phrases not defined in this section shall be interpreted to give them the meaning they have in most common usage and to give this article its most reasonable application.

Active water harvesting means the containment of precipitation or run-off in a storage tank and distribution with a mechanical system, by means of gravity or a pump.

Administrator means the Planning and Zoning Administrator of the Village.

Application means all the documents and fees required of the applicant for a permit or approval.

Arroyo means a normally dry water course.

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

Best management practices means practices used to reduce erosion and sediment transport during the construction process.

Bioengineering techniques means erosion control methods which use plants, sometimes in conjunction with mechanical methods, to build living structures on steep slopes, stream banks, and at the interface between soil and water.

Build means to construct, erect, convert, enlarge, reconstruct or structurally alter a structure.

Buildable site means a contiguous area of land located within a single lot on which a structure can be developed in compliance with all requirements of this section, all requirements of the underlying zone, and all applicable performance standards, including, but not limited to, the terrain management regulations set forth in this article.

Channel means a portion of a drainage way that has naturally or artificially developed bed or banks to confine and conduct continuously or periodically a flow of water.

Channel depth means the vertical distance between the lowest point of a channel and the highest adjacent top of bank on either side of the channel.

Check dam means a small dam built within a drainage channel to decrease flow velocity and reduce erosion (by reducing the channel gradient), minimize scour, and promote deposition of sediment.

Cistern means an artificial reservoir for storing water, often underground.

Commission means the Planning and Zoning Commission of the Village.

Cul-de-sac means a minor street with only one inlet and a turnaround or dead end at the other terminus.

Cut means the removal of earth material from a slope.

Detention means the temporary storage of storm water to prevent excessive or excessively rapid runoff. A detention basin is designed to empty within a specified period of time after filling and will not normally contain water.

Development means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Drainage easement means the use of land primarily for the movement of storm water through a drainage way, a floodplain or land susceptible to flooding and for the maintenance of drainage structures. This right of use by a person, private entity, the Village, or other public agency over the property of another may be reserved by plat, by easement agreement, or otherwise acquired.

Drainage right-of-way means land dedicated by the owner and accepted by the Village or other public agency primarily for the movement of storm water through a drainage way, a floodplain or land susceptible to flooding and for the maintenance of drainage structures. Such ownership in fee simple may be conveyed by plat, by deed, or by other instrument, or otherwise acquired.

Drainage way means a natural or artificial land surface depression with or without perceptibly defined bed and banks, to which or through which surface runoff gravitates, collects, impounds or is channeled for disposition.

Earth material means any rock, natural soil or fill and any combination thereof.

Erosion means the wearing away of ground surfaces as a result of the movement of wind, water and ice.

Erosion control structures means structures of any type that are designed or intended to reduce or minimize erosion, and includes but is not limited to check dams, detention basins, and wire-enclosed rip-rap.

Excavation means the mechanical removal of earth material.

FEMA means the United States Federal Emergency Management Agency.

Fill means a deposit of earth material by artificial means.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood fringe means a portion of the floodplain lying on either side of the floodway, as determined by FEMA.

Floodplain means the area inundated by the 100-year flood, which contains the floodway and flood fringe.

Floodway means the stream channel and that portion of the adjacent floodplain which must remain open to permit passage of base flood, as defined by FEMA.

Footprint means the configuration of the area of ground covered by a structure including all its parts.

French drain means an artificial in-ground trench or other volume of rock that infiltrates and distributes water.

Grade means:

- (1) The elevation at a defined point; or
- (2) Slope: an inclined ground surface.

Grading means any excavating or filling or combination thereof.

Impervious surface means built or paved areas that will not absorb storm water. Graveled surfaces are not impervious surfaces.

Infiltration basin means a facility for the storage of storm water or other runoff that empties solely by water moving into the soil or through evaporation.

Infrastructure means facilities needed to sustain development activities and includes water, sewer, electric, gas, telephone service, storm drainage systems, and streets.

Inspector means the Village of Corrales Planning and Zoning Administrator or designee.

Landscaping means the planned introduction of living plants such as trees, shrubs, ground cover, or grass and non-living materials such as rocks, gravel, mulch, fences, walls, or paving materials, but does not include the growing of crops, fruit trees, vegetables or nursery stock, whether for commercial purposes or personal consumption.

Lot means a parcel or tract of land platted and recorded with the County Clerk in accordance with appropriate laws and ordinances.

Minor lot development means small scale land development that takes place on a single lot, disturbs less than one-thousand (1,000) square feet of land, disturbs no slope greater than eight percent (8%), creates no more than one-thousand (1,000) square feet of new impervious surface, and does not exceed the thirty-five percent (35%) lot coverage limitation.

Mulch means material applied to the surface of the soil to decrease moisture loss and control the growth of weeds. Organic mulches include bark and wood chips, straw, grass, hay, compost, and seed shells. Inorganic mulches include rock and gravel.

Natural grade means the elevation of the ground surface before any grading, excavation or filling by the applicant.

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

One hundred (100)-year flood or one hundred (100)-year frequency flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

One hundred (100)-year frequency / twenty-four (24) hour precipitation event means a storm event that within twenty-four (24) hours, produces a quantity of precipitation so great that it has a 1 percent (1%) chance of happening in any given year.

Passive water harvesting means precipitation and/or runoff collected and/or stored by surface or in ground structures with no means of mechanical distribution.

Peak flow rate means the maximum rate of storm water run-off resulting from a 100-year frequency, 24-hour precipitation event.

Percent of slope means the relation of vertical rise from or to the contour line at horizontal intervals of not more than fifty (50) feet and calculated as follows:

$(H - L) \div D \times 100$; where H equals the highest elevation of the portion of the tract measured; L equals the lowest elevation on the portion of the tract measured; and D equals the horizontal distance between H and L.

Permit means a document issued by the Village allowing a person to begin an activity provided for in this article.

Plat means a map, chart, survey, plan or replat certified by a licensed, registered land surveyor which contains a description of the subdivided land with ties to permanent monuments.

Professional architect means an architect registered by the State of New Mexico.

Professional engineer means an engineer registered by the State of New Mexico, qualified in the specific engineering discipline(s) required to provide the necessary engineering service(s).

Professional landscape architect means a landscape architect registered by the State of New Mexico.

Professional surveyor means a surveyor registered by the State of New Mexico.

Project means any activity regulated by this article.

Property means a parcel or parcels of land commonly owned and contiguous, excluding streets and rights-of-way.

Public right-of-way means land owned by the Village or another public agency primarily for the use of the public for the movement of people, goods and vehicles and for the installation and maintenance of public utilities or drainage ways.

Retention means storage of storm water or other runoff in a facility that empties solely by infiltration or evaporation and does not have an engineered outlet structure.

Roadway means that portion of a street which is primarily devoted to vehicular traffic.

Runoff means the water from natural precipitation that flows over the surface of the land and does not percolate into the soil.

Scale means the relationship between the distances on a plat or on a map, and the corresponding actual distances.

Significant tree means a deciduous tree six (6) inches in caliber or greater or a conifer tree eight (8) feet in height or greater, except for Siberian or Chinese Elm, Russian Olives or Tamarisk (salt cedar).

Slope means an inclined ground surface.

Soil means the layer of earth material found near the surface and naturally occurring in the Village.

Soils engineering report means a report prepared by a professional engineer indicating the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary, along with opinions and recommendations covering adequacy of sites to be developed by the proposed grading.

Special flood hazard area means the base floodplain displayed on FEMA maps

Storm drainage system includes but is not limited to drainage courses, constructed channel underground storm sewers, streets, drop inlets, detention basins and other drainage improvements.

Storm water management measures means controlling the water on site so as not to impact adjoining property.

Street means a way, right-of-way or easement, whether on public or private land, used or intended to be used by the general public and open to the general public for passage or travel by motor vehicle, but does not include a driveway or similar way designed or created for access to a single property or a limited number of properties, merely by virtue of providing access to such properties for the general public.

Structure means any construction or any production or piece of work consisting of a combination of materials to form an edifice or building of any kind, or a construction for occupancy, use or ornamentation that is installed on, above, or below the surface of the land.

Subdivide means to legally divide or redivide land into two or more parts for the purpose, whether immediate or future, of sale, lease, offer, or development, whether by deed, metes and bounds description, lease, map, plat or other instrument, including all changes in street or lot lines, but does not include the following actions:

- (1) The lease of land for grazing or farming activities;
- (2) The lease of apartments, offices, stores or similar space within a building;
- (3) The lease of a building within a commercial or office development; or,
- (4) The division of land in which only gas, oil, mineral, or water rights are severed from the surface ownership of the land.

Subdivider means any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined in this section, and includes any agent of the subdivider.

Subdivision means the act of subdividing or the parcel of land subdivided.

Swale means a shallow excavation constructed perpendicular to overland flow direction to detain storm water runoff, keeping it onsite and allowing it to infiltrate.

Ten (10)-year flood or *ten (10)-year frequency flood* means the flood having a ten percent (10%) chance of being equaled or exceeded in any given year.

Top of bank means, for an arroyo, stream or watercourse, the outer limit of the convex surface where the bank slope diverges from the land surface external to the channel.

Topsoil means the uppermost part of a soil, generally ranging in depth from three (3) to six (6) inches, provided such part of the soil can sustain vegetation and is free of caliches, trash, or toxic materials.

Variance means an approved, limited relaxation from the strict application of this article applicable to a designated parcel or parcels of land.

Water harvesting means, the capture and use of precipitation for plant irrigation, soil recharge, or collected and stored for future use. Precipitation may be collected from surfaces including roofs, roads, parking lots, and landscapes. Water harvesting may be active or passive.

Watershed means a land surface area that drains into a single stream, watercourse, arroyo, pond, or similar water body, whether perennial or intermittent. The term “watershed” is commonly used interchangeably with “drainage basin.”

Xeriscape means, landscaping in a manner that reduces or minimizes the need for water. Xeriscaping may include but is not limited to the use of native and drought-tolerant plants and the use of efficient systems of irrigation.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09; Ord. No. 15-06, adopted 2-24-15.

Section 18-163. Procedures and general requirements

(a) All proposed development shall be so designed as to meet the goals and objectives listed in Section 18-160.

(b) The Village Engineer, at the discretion of the Mayor upon the recommendation of the Administrator, and at the expense of the applicant, may be requested to review and evaluate the following:

- (1) The completeness of all required terrain and storm water management submittals;
- (2) Compliance with all minimum standards;
- (3) The acceptability of all proposed erosion control and storm water management methods; and
- (4) The need for additional information or written approval in order to determine compliance with the purposes, intent, and minimum standards of this section.

(c) The preparation of submittals required under this article shall be as follows:

- (1) *Grading permits.*

Submittals shall be prepared and certified by a professional engineer or professional architect.

- (2) *Topographic Plans.*

Submittals shall be prepared and certified by a professional surveyor or professional engineer.

- (3) *Site restoration.*

Submittals shall be prepared and certified by a professional engineer, professional architect or professional landscape architect.

- (d) *Detention ponds.*

- (1) Detention ponds over eighteen (18) inches in depth will require fencing unless side slopes are 3:1 or flatter.
- (2) All detention ponds must be designed to evacuate from a full condition within twenty-four (24) hours or less, unless discharge is limited by downstream constraints, in which case the evacuation period shall be no greater than ninety-six (96) hours. Ponds that take more than six (6) hours to drain will be designed for a design storm equal to or exceeding the evacuation time. No percolation credit for volume reduction will be given.

- (e) *Retention ponds.*

- (1) Retention ponds over eighteen (18) inches in depth will require fencing unless side slopes are 3:1 or flatter.
- (2) All retention ponds must empty from a full condition within twenty-four (24) hours through percolation into the subsurface.

(f) No certificate of occupancy or any type of final construction approval shall be issued by the Village unless a parcel is in full compliance with the requirements of this section, all required inspections have been conducted and final construction drawings have been submitted as described in Section 18-168.

(g) Activities permitted by this section may also require notification or permitting by other agencies, including but not limited to approval from the Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA) or other official watercourse related organization, the Federal Environmental

Protection Agency, the United States Army Corps of Engineers, the Federal Emergency Management Agency (FEMA) and the New Mexico Environment Department. It is the responsibility of each applicant to determine whether additional notification or permitting is required and to provide for such notification or permitting.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Section 18-164. Grading permits.

(a) *Applicability.*

(1) No person shall do any clearing, grubbing or grading of land within the boundaries of the Village, except as provided in Subsection 18-164(a)(3), without first receiving a grading permit. Prior to the issuance of a grading permit, all projects shall comply with all applicable State and federal regulations. Application and review process, minimum standards and submittal requirements for grading permits are provided in Section 18-163.

(2) Except as provided in Subsection 18-164(a)(3), a grading permit shall be required for:

- a. All development that is subject to the requirements of Section 18-165, Section 18-166, or Section 18-167;
- b. Work within an arroyo or drainage way which is intended to create or may create changes in flow characteristics, including but not limited to earthwork, construction of drainage devices or erosion control devices, removal of significant trees, and modifications of arroyo or drainage way banks or bottom, in addition to State or federal permits that may be required;
- c. Grading for new driveways, streets or roadways;
- d. Paving for all driveways, streets or roadways;
- e. Utility trenching for all commercial and public projects; and,
- f. Any of the following individual activities:
 1. Removal of more than twenty-five percent (25%) of significant trees, grass coverage, or natural vegetation on a lot; or,
 2. Ground disturbance of one thousand (1,000) square feet or more.

(3) A grading permit is not required for:

- a. Development that satisfies each of the conditions of Subsection 18-161(c) and is issued an exemption by the Administrator;
- b. Lands east of the Corrales Main Canal;
- c. Grading, for maintenance purposes, of existing driveways, private streets or roadways, and private drainage ponds on individual lots;
- d. Cemetery graves;
- e. Excavation for wells; and,

- f. Exploratory excavations under the direction of archaeologists, soil engineers or engineering geologists.

(b) *Application and review process.*

- (1) Anyone requesting a grading permit or anyone requesting an exemption from the grading permit requirements must obtain and submit a completed application for grading permit review. The application shall be returned to the Administrator accompanied by the appropriate application fee and the appropriate number of sets of required submittal materials.
- (2) Request for Exemption. The Administrator shall determine if the proposed development satisfies each of the conditions of Subsection 18-161(c).
 - a. If approved, the Administrator shall indicate such approval on the application and issue the appropriate exemption.
 - b. If denied, the Administrator shall indicate such denial on the application, state the reasons for the denial, and inform the applicant of the subsequent procedures as required by this article.
- (3) Request for Grading Permit. The Administrator shall determine if the proposed development complies with the minimum standards (Subsection 18-164(c)) and determine if the application includes the required submittal materials (Subsection 18-164(d)).
 - a. If approved, the Administrator shall indicate such approval on the application and issue the appropriate permit.
 - b. If denied, the Administrator shall indicate such denial on the application and state the reasons for the denial.

(c) *Minimum standards.*

When a grading permit is required by this article, applications for the permit shall include a grading plan prepared by a licensed professional engineer or architect showing compliance with the following minimum standards:

- (1) *Cut and fill slopes.*
 - a. Cut slopes on a site shall not exceed ten (10) feet in height;
 - b. Fill slopes on a site shall not exceed fifteen (15) feet in height. Retaining walls for fill slopes shall be no greater than ten (10) feet in height. Concrete or cement coated retaining walls shall be a matching earth tone color or constructed of natural materials. Unstabilized fill slopes shall be no steeper than 3 to 1 (3 horizontal to 1 vertical) unless a structural alternative such as a retaining wall or some other measure acceptable to the Village Engineer is provided;
 - c. Cut or fill slopes for roads and driveways shall not exceed fifteen (15) feet in height; and,
 - d. All cut slopes that are not stabilized by a retaining wall or some other measure acceptable to the Village Engineer, shall be no steeper than 3 to 1 (3 horizontal to 1 vertical), unless a structural alternative approved by the Village is provided or the applicant demonstrates to the satisfaction of the Village that existing soils will naturally accommodate a steeper slope and acceptable revegetation or other erosion control can be achieved.

(2) *Grading.*

- a. Grading on building sites is limited to fifteen (15) feet beyond the outer edge of the building foundation, patio, wall, driveway, roadway, parking area, or other constructed facility on all sites and for all construction projects, including both new construction and reconstruction, except:
 1. As necessary for the construction of storm water runoff management measures in compliance with this section; or,
 2. As necessary to accommodate required horizontal to vertical measurements for cut and fill slopes; or,
 3. As necessary to accommodate water and waste water systems.
- b. Private driveways shall not exceed a grade of eight percent (8%) nor shall the inside-turning radius of any private driveway be less than fifteen (15) feet.
- c. Natural slopes greater than fifteen percent (15%) shall remain undisturbed. A variance may be granted, upon application, for isolated occurrences such as arroyo crossings and other limited areas with a natural slope greater than fifteen percent (15%), where the disturbance does not exceed one thousand (1,000) square feet in total. If the applicant demonstrates to the satisfaction of the Village that strict enforcement of this provision would prohibit access to the lot or placement of utilities, the Commission may grant a variance from the terms of this Subsection 18-164(c)(2)c. The Commission may seek the advice of the Village Engineer in considering a request for variance under this subsection, but shall not be bound or limited by such advice. This variance provision shall apply solely to the construction of streets, roadways, driveways, drainage ways, and utility placement and is not intended to permit development on natural slopes exceeding fifteen percent (15%).
- d. The Administrator, in the Administrator's discretion, may require specific phasing for grading and clearing on any site where construction will not begin immediately after clearing and grading, or where initial construction will occupy only a portion of the site to be cleared and graded.
- e. No grading permit for driveway construction shall be issued unless the Administrator has first determined that a buildable site as defined in Section 18-162 exists on the lot.
- f. All grading completed on the site shall be in conformance to the approved grading plan.

(3) *Site restoration.*

All development subject to a grading permit shall be required to meet the requirements of Subsection 18-166(c)(5) as appropriate for the project.

(4) *Best management practices.*

The following best management practices shall be used before and during the construction process:

- a. Disturbed areas shall be protected from erosion during construction by diversion of storm water around the disturbed area, energy dissipation of storm water adequate to prevent

- erosion, retention of sediment on the disturbed area, and/or other means adequate to retain soil on site; provided, however, that any diversion of storm water shall not increase the runoff of water or sediment onto any other property.
- b. Except as necessary to install temporary erosion and sediment control devices, land shall not be graded or cleared of vegetation until all such temporary devices have been properly installed and inspected. Temporary erosion and sediment control devices may include silt fencing, swales, straw bales, berms, geotextiles sediment basins or traps, or fencing. Control devices shall be kept in place and used until the disturbed area is permanently stabilized.
 - c. Significant trees, areas with, existing vegetation and drainage ways that are to remain undisturbed shall be fenced off prior to the use of any heavy machinery on-site and shall remain fenced during the entire construction process. Fencing material may include snow fencing, plastic mesh or other similar fencing material. To protect the root zone of significant trees, fencing shall be placed five (5) feet to the outside of the drip line of significant trees.
 - d. To prevent soil from leaving a site, soil stockpiles shall be protected from wind and water erosion throughout the construction process by using appropriate erosion control techniques. Staging and soil stockpile areas shall be clearly designated on the site. All topsoil shall be kept on site, within the disturbance zone of a construction site, and then reintroduced into planting areas to the extent possible. Stockpiled soil shall not be allowed to enter arroyos or other drainage ways.
 - e. Techniques to prevent the blowing of dust or sediment from the site, such as watering down exposed areas, are required for projects which disturb greater than five thousand (5,000) square feet.

(d) *Submittals.*

Applications for grading permits shall include:

- (1) A topographic survey and grading plan with elevation contours shown at not more than one (1) foot intervals on slopes up to eight percent (8%), not more than two (2) foot intervals on slopes between eight percent (8%) and fifteen percent (15%), and not more than five (5) foot intervals on slopes of fifteen percent (15%) or greater, which shows:
 - a. All areas with slopes greater than eight percent (8%) must be differentiated through shading, tone, color, or line weight; and all areas with slopes fifteen percent (15%) or greater must be differentiated through shading, tone, color, or line weight;
 - b. All areas to be graded on the site and the final contours to be achieved by the grading;
 - c. All finished floor or grade elevations;
 - d. Spot elevations, as needed;
 - e. The location of temporary erosion control structures and methods used, including staging and stockpile areas;
 - f. All significant trees and areas with substantial grass coverage to be removed;
 - g. A construction schedule when the project will be developed in phases;

- h. The location of fencing around the areas to be protected;
 - i. The ratio of horizontal to vertical measurement for cut and fill slopes;
 - j. The total volume, in cubic yards, of earth to be moved;
 - k. All existing disturbed areas; and
 - l. FEMA flood hazard areas.
- (2) For all roadways or other excavations where the volume of earth to be moved exceeds three hundred (300) cubic yards, cross-sections or contour maps showing the height of cuts and fills at a maximum of one hundred (100) foot intervals and at any major breaks in the terrain may be required by the Administrator or the Village Engineer.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Section 18-165. Building permits for minor lot development.

(a) Minor lot development includes the construction of any structure, including but not limited to single-family residences, additions, sheds, garages, driveways, or pavement, that meets all of the following criteria:

- (1) All development takes place on a single lot.
- (2) Development disturbs less than one thousand (1,000) square feet of land, or covers less than one thousand (1,000) square feet in area;
- (3) Development disturbs no slope greater than eight percent (8%);
- (4) No more than one thousand (1,000) square feet of new impervious surface is created; and,
- (5) Total development does not exceed the thirty-five percent (35%) lot coverage limitation on the lot.

(b) *Minimum standards.*

Minor lot development shall comply with each of the following minimum standards:

- (1) All water generated on the lot must be contained on site.
- (2) The minimum volume of water to be contained or infiltrated on site shall be determined by multiplying the total area of new impervious surface, in square feet, by 2.66 inches (0.222 feet) to arrive at a value expressed in cubic feet, (i.e., 222 cubic feet of water containment is required per 1,000 square feet of impervious surface). Compliance may be achieved by:
 - a. The use of active or passive water harvesting techniques such as cisterns, swales, berms, and check dams;
 - b. The construction of a detention or retention basin; or,
 - c. A combination of a. and b.

- (3) All water containment structures that have water open to the air shall empty within twenty-four (24) hours either through percolation into the subsurface or through outlet structures designed to ensure a controlled release of water that will not cause flooding or erosion.
- (4) Waters specific to minor lot development including the construction of any structure including but not limited to single family residences, additions, sheds, garages, driveways, or pavement must be contained on the individual lot.
- (5) To protect against erosion, all land disturbed during construction shall be revegetated with drought tolerant vegetation. Trees and shrubs shall be irrigated until established. The use of naturally degrading erosion control blankets or other erosion control materials is encouraged to ensure that grasses become established. Stones or treated landscape timber may be used to stabilize disturbed areas in lieu of re-vegetation as long as it does not increase runoff to adjoining properties.

(c) *Submittals.*

Building permit applications for minor development shall include:

- (1) A brief narrative description of the proposed project;
- (2) A topographic map of the property to scale, including United States geological survey quadrangle maps adequate to show elevation contours, natural drainage ways, existing and proposed improvements;
- (3) A brief verbal description and/or representative photographs of the type (such as, sage brush and annual weeds, grass cover, bare ground, and so on) and approximate coverage of existing vegetation at the site, and a plan for vegetation removal at the site;
- (4) A description of all proposed grading or ground disturbance;
- (5) Calculations and a plan drawing showing:
 - a. The size and location of all proposed runoff containment structures or methods and how water will be directed to the structures or methods;
 - b. Percolation test results demonstrating that stormwater retention ponds, if any, will empty within twenty-four (24) hours;
 - c. A roof run-off drainage plan; and,
 - d. A planting plan for revegetation showing proposed plant materials and a description of the proposed irrigation method or other methods used to establish vegetation and prevent erosion until vegetation becomes established;
- (6) Copies of all percolation test results relied upon in connection with the application; and
- (7) Compliance with requirements of all other applicable ordinances.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Section 18-166. Building permits for all other development.

- (a) *All other development.*

All development that requires a building permit and does not meet the criteria for a minor lot development under Subsection 18-165(a) shall meet the following minimum standards and submittal requirements:

(b) *Minimum standards.*

(1) All projects shall meet the minimum standards for grading permit approval in Section 18-164.

(2) *Topography.*

- a. Each lot shall have a designated buildable site of not less than two thousand (2,000) square feet, which shall be developed in accordance with the terrain and storm water management standards and minimum performance standards;
- b. The area designated as suitable for building and designated for the building footprint shall have a natural slope of fifteen percent (15%) or less. The remainder of the lot area may have a natural slope over fifteen percent (15%) but may not be disturbed;
- c. For a structure built on a natural slope over eight percent (8%), the finished floor elevation at any point shall not exceed five (5) vertical feet above the natural grade at that point;
- d. No structure may be built on a natural slope of over fifteen percent (15%); and,
- e. The development does not exceed the thirty-five percent (35%) lot coverage limitation on the lot.

(c) *Storm water management plan.*

(1) *General standards.*

- a. Storm water management measures shall be selected to best accommodate the specific geologic, hydrologic, and topographic features of the land to be developed.
- b. Storm water management measures shall be designed as both a comprehensive and integral part of the development.
- c. Storm water management measures shall be designed to directly address additional flows from the proposed development. Compliance with these standards shall not be achieved solely by alterations to flows upstream of a proposed development.
- d. Storm water management plans may be designed to incorporate measures that are shared by two (2) or more developments provided that the measures comply with the minimum standard of this section.

(2) *Discharge standards.*

- a. The storm water runoff peak flow rate discharged from a site shall not exceed pre-development conditions for any frequency storm event up to the 100-year, 24-hour storm event at each discharge point. Calculation of the runoff peak flow rate may approximate the event from available data based on using 2.66 inches (0.222 feet) per square foot of impervious surface.

- b. Runoff control measures may include, but are not limited to, the use of detention or retention basins and active and passive water harvesting techniques including swales, berms, cisterns, check dams, vegetative ground cover, and other techniques appropriate for retaining and infiltrating water on-site.
- c. No storm water shall be discharged into any watercourse or drainage channel without adequate reduction of flow velocity. This shall be accomplished by erosion control techniques that may include the routing or energy dissipation of storm water runoff to a vegetated swale, vegetated basin, or stone-protected area. The techniques used shall be sufficient to diminish runoff velocity and spread runoff flow adequately to avoid erosion upon entering the watercourse. No storm water runoff shall be routed into irrigation ditches, canals, acequias or watercourses related to an acequia system.
- d. No existing acequia, watercourse or other natural or constructed drainage system whether on-site or off-site, shall be disturbed by any on-site building development or construction activity unless specifically permitted by the Village.

(3) *Basin standards.*

- a. Storm water detention and retention basins and overflow structures shall be sized and designed to adequately accommodate flows from 100-year, 24-hour storm events.
- b. Infiltration, detention, and retention basins shall provide a means of controlling and removing sediment. Methods may include sedimentation settling ponds, sediment traps, filters on drop inlets, or other methods. Except as otherwise specifically provided in this article, all basins shall be designed to empty within no more than twenty-four (24) hours after a 100-year, 24-hour storm event.
- c. No french drain, infiltration basin or other similar structure intended for the percolation of water into the soil shall be constructed so that its depth is greater than its widest horizontal dimension unless a notice of intent for the construction is filed with the New Mexico Environment Department and provided to the Village in advance of construction.
- d. Nothing in this section shall be construed as prohibiting construction of tanks, cisterns or surface off-ponds for the purpose of harvesting water, provided that overflow provisions meet the standards of this section.

(4) *Arroyo, stream and watercourse standards.*

- a. Except as otherwise specifically provided in this Subsection 18-166(c)(4), no structure, paved road, driveway, or parking lot shall be located (i) less than twenty-five (25) feet laterally from the nearest top of bank of any arroyo, stream or watercourse less than one (1) foot in depth, or (ii) less than a distance laterally of twenty-five (25) feet plus the channel depth from the nearest top of bank of any arroyo, stream or watercourse having a channel depth of one (1) foot or more. This setback provision does not apply to storm water management structures or public access trails.
- b. Except for construction, repair or maintenance of erosion control measures, storm water management measures, public access trails, the placement of underground utilities, or necessary public works projects, no grading shall occur within the setback area.
- c. Where practical, erosion control and channel stability in arroyos, streams, or watercourses shall be achieved using techniques that reduce storm water velocity, preserve active

floodplains, provide adequate room for floodwaters to spread safely, and utilize native vegetation. Arroyo and watercourse banks shall not be armored with concrete, gabion baskets, sheet piling, rip-rap, or similar hardened material unless no reasonable alternative exists to protect public infrastructure or pre-existing structures.

- d. Fences, walls, and similar structures may not be constructed in or across any arroyo, stream, or watercourse.

(5) *Site restoration.*

- a. Soil stabilization and erosion control measures for all land disturbed by construction shall be completed within twenty-one (21) calendar days after completion of construction or other activities on site that would interfere with such soil stabilization measures. If the time of year is not conducive to planting, then upon application to and approval by the Administrator, planting may be delayed until the next appropriate planting season provided that all appropriate temporary erosion control measures are maintained until permanent erosion control measures are implemented. A request for planting delay must be filed within twenty-one (21) calendar days after completion of construction with the Administrator. All requests for planting delays must include the grading permit number, reason for delay, a description including location of all temporary erosion control measures, and date by which planting will be completed.
- b. If stabilization and erosion control measures are required one or more of the following shall be used:
 1. Revegetation with appropriate drought-tolerant plant materials, including grasses or other ground cover;
 2. Restoration with bioengineering techniques such as live staking, brush layering, and brush mattress, or other appropriate techniques approved by the Administrator; or,
 3. Stabilization with stones, terracing, or similar techniques.
- c. All trees and shrubs shall be maintained until established. It is recommended that grass seed either be: 1) hydro seeded; or, 2) covered with biodegradable material or synthetic soil erosion control blankets or matting and irrigated until established.
- d. All vegetation and revegetation must comply with applicable Village ordinances regarding xeriscaping.

(6) *Enhanced standards in certain situations.*

- a. The Administrator may require implementation of further storm water management measures, in addition to the minimum storm water standards stated in this article, if arroyos or watercourses on site or immediately downstream of a site show evidence of increased flooding, channel erosion or sedimentation, as a direct result of conditions on the site. Required additional storm water management measures may include, but will not necessarily be limited to:
 1. Erosion control measures extended to a broader area of the site than the development area;
 2. Revegetation of highly eroded areas;

3. Arroyo restoration or other erosion control measures within highly eroded channels; or,
4. A combination of the above measures.

(d) *Submittals.*

Submittals for building permit applications for development under this Section 18-166 shall include:

- (1) The submittals for grading listed in Section 18-164(d).
- (2) Topography plan, based on a topographic map of the site, which shall include as a minimum:
 - a. All sloped areas over eight percent (8%) shall be clearly marked and differentiated by shade, tone, or color at the same scale required for preliminary subdivision plat, and all slopes fifteen percent (15%) or greater shall be clearly marked and differentiated by shade, tone, or color at the same scale required for preliminary subdivision plat;
 - b. Ground elevations, referenced to a specifically cited National Geodetic Survey datum [the datum, either National Geodetic Vertical Datum of 1929 (NGVD 29) or North American Vertical Datum of 1988 (NAVD 88), shall be specified], showing elevation contours at not more than one (1) foot intervals on slopes up to eight percent (8%), not more than two (2) foot intervals on slopes between eight percent (8%) and fifteen percent (15%), and not more than five (5) foot intervals on slopes of fifteen percent (15%) or greater;
 - c. The designated buildable site; and
 - d. Date, method of survey, and certification from a professional land surveyor that the topographic map is in compliance with national map accuracy standards.
- (3) Storm water management plan, prepared and certified by a professional engineer, which includes:
 - a. A vicinity map;
 - b. Existing and proposed contours, all watercourses, arroyos, drainage ways, impoundments, and wetlands on or adjacent to the site or into which storm water from the site flows;
 - c. Location of all existing and proposed improvements including buildings, structures, impervious surface, storm water management measures, roads, and utilities;
 - d. Location of all easements and rights-of-way;
 - e. The delineation, if applicable, of the 100-year floodplain, including the flood fringe and floodway, if available, and any on-site or adjacent wetlands;
 - f. Description of all soils, including general soil characteristics and areas of solid rock;
 - g. Percolation test results for all areas with retention ponds or other facilities designed for infiltration and a description of techniques to be used to prevent the clogging of soil pores by fine sediment;
 - h. A description of the approximate area and drainage characteristics of the watershed above the site, including the vegetative coverage and impervious surfaces;

- i. The total peak flow rate of storm water that would be discharged from the site for pre-development and post development runoff conditions in the two (2), ten (10), fifty (50), and one hundred (100)-year, 24-hour storm events and type of calculation method used;
 - j. Sizing, volume, and peak flow rate calculations in cubic feet per second for storm water management facilities;
 - k. Structural and construction details for all components of the proposed drainage system;
 - l. Data for total site area, disturbed area, new impervious area, and total impervious area; and,
 - m. A plant schedule of materials to be used as landscape treatment for storm water management measures.
- (4) Site restoration plan which includes the location of all permanent erosion control methods, including location, type and amount of plant and seed material to be used, proposed irrigation, any soil stabilization needed prior to plant establishment, time schedule for installation, and maintenance schedule for one year beyond the planting date.

(5) Demonstrated compliance with requirements of all applicable ordinances.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Section 18-167. Preliminary and final subdivision plats.

(a) *Minimum standards.* Preliminary and Final subdivision plats shall meet the minimum standards described in Section 18-166.

(b) Projects shall meet the minimum standards of Section 18-166.

(c) *Submittals.*

Submittals for preliminary and final subdivision plats shall include, in addition to all materials required by any other applicable ordinance, statute, regulation or provision:

- (1) All submittals required in Subsection 18-166(d);
- (2) A topography plan as outlined in Subsection 18-166(d);
- (3) A brief description of the watershed directly upstream and downstream of the parcel, including the size, terrain, type and extent of vegetation cover, and degree of development for all areas draining to the project site;
- (4) A water availability and conservation plan shall be submitted for all new subdivisions which are sited, in whole or in part, on natural sloped areas greater than fifteen percent (15%); and
- (5) A long-term maintenance schedule for the life of the storm water management measures including the time frame for completion and the responsible party who shall perform the maintenance.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Section 18-168. Inspections during construction process.*(a) Inspections.*

- (1) For all non-residential projects and all residential projects that do not qualify as minor development, an applicant shall notify the Village to set up a Village inspection at each of the following times:
 - a. When the temporary best management practices are completed;
 - b. When final storm water management measures are completed; and
 - c. When the final site restoration measures are completed, however, if final site restoration measures are being delayed due to the season, the applicant shall notify the Village when temporary erosion control measures, for use until site restoration is complete, are in place and ready for inspection.
- (2) Further construction or issuance of any permits shall not occur until written approval has been granted by the inspector after each inspection that the best management practices and storm water management control methods have been completed in accordance with approved plans.
- (3) Upon completion of all construction, the applicant shall submit to the Village two (2) complete sets of "as built" construction drawings, showing all water management structures, and a final grading survey showing actual site topography and water flow pathways upon completion of construction, prepared and certified by a professional engineer, professional surveyor, professional architect, or professional landscape architect.

(b) The Code Enforcement Officer or Village Building Inspector may enter upon any property subject to this section at reasonable times to conduct inspections of grading, erosion and storm water management measures to determine compliance with Village policies and procedures and to carry out duties in the enforcement of this section.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Section 18-169. Long term maintenance responsibilities and inspections.*(a) Responsibilities.*

- (1) All storm water management measures and facilities shall be maintained by the owner of the property or a homeowners association, unless a dedication of the storm water management system has been required or accepted by the Village, in which case, the Village shall be responsible for maintenance.
- (2) For new subdivisions, a performance bond shall be posted by the developer or subdivider, and shall remain in effect for at least five (5) years following a letter of infrastructure construction completion from the Village Engineer.
 - a. The bond must be in an amount sufficient to defray all anticipated maintenance and repair costs during the five (5)-year period, as determined by the Village Engineer.
 - b. In the event that any responsible developer, subdivider, homeowner, homeowners association, or other property owner does not perform necessary maintenance and repair in a timely manner as determined by the Village, the Village may perform all necessary work to place the facility in proper working condition. The responsible party shall be assessed the

associated costs of the work. The Village may utilize all or a portion of the performance bond for the purpose of defraying such assessed costs.

- (3) The storm water management system shall be maintained in good condition and promptly repaired by the developer or other responsible party or parties.
 - (4) Maintenance shall include the repair and restoration as needed of all grade surfaces, walls, swales, drains, dams, ponds, basins, site restoration measures, associated vegetation, and any other storm water measure constructed on site.
 - (5) Such maintenance shall be in accordance with approved storm water management plans.
- (b) *Village inspections.*

The Village or its authorized agent may enter upon any property which is subject to this section, at reasonable times to access the storm water management system to ensure that the system is maintained in proper working condition to meet the approved storm water management plans and the objectives and minimum standards of this section.

- (c) *Maintenance violations.*

If after notice by the Village to correct a violation requiring maintenance work under this section 18-169, satisfactory corrections are not made by the owner(s) or responsible party within thirty (30) days the Village may:

- (1) Perform or cause to be performed the maintenance and repairs and recover its costs from any bond provided;
- (2) Assess against the owner(s) or responsible party a penalty of up to \$500.00 per day for each day that the violation remains in effect; and
- (3) Pursue any other legal remedy available to, and in the sole discretion, of the Village.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Section 18-170. Variance.

(a) *Application for variance.* Anyone requesting a variance from any provision of this article shall submit a completed variance application. The application shall be returned to the Administrator accompanied by the appropriate application fee and the appropriate number of sets of required submittal materials.

(b) *Meeting with Administrator.* Prior to submitting an application for a variance, the applicant shall first schedule a meeting with the Administrator. Review and comment can be obtained at this time concerning the relationship of the variance request to the Village Comprehensive Plan and the Land Use Ordinances. Copies of the pertinent sections of this article, the application, and submittal requirements shall be provided to the applicant upon request.

(c) *Processing of application.* The Administrator shall schedule a hearing on the application before the Commission no later than sixty (60) days following the submittal of a completed application.

(d) *Conditions for variance.* Where the Commission finds that the strict application of the requirements of this article would result in a practical difficulty or unnecessary hardship that would

deprive the owner of the reasonable use of the land or building, the Commission may grant a variance provided that all of the following conditions are met:

- (1) The variance will not be contrary to the public interest;
- (2) The variance will not adversely affect adjacent property owners or residents;
- (3) The variance is due to unique characteristics of the property that were in existence prior to the adoption of this article or that have come into existence since that time through no action of the owner.

(e) *Factors to consider.* In evaluating the provisions of this Section 18-170, the Commission shall consider the following:

- (1) Accessibility to property and proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, all streets, roadways, and emergency access in case of fire, flood or catastrophe;
- (2) All locations on-site for water, septic, sewer, and liquid waste facilities, with reference to soil limitations, locations, and public health;
- (3) On-site and off-site topography, drainage, and storm water runoff;
- (4) General compatibility with adjacent properties;
- (5) The overall health and safety of the community; and,
- (6) The goals and objectives of the comprehensive plan.

(f) *Imposing conditions.* In considering a request for approval of a variance, the Planning and Zoning Commission may impose any conditions that are deemed to be in the best interest of the Village or reasonably necessary for the protection of other properties.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Section 18-171. Appeal.

(a) *Right of appeal.* Any party aggrieved by a decision of the Administrator or Planning and Zoning Commission in carrying out the provisions of this article may appeal to the Governing Body. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by evidence in the matter.

(b) *Application.* Any appeal following a decision of the Administrator or Planning and Zoning Commission shall be made in writing to the Governing Body, together with payment of the applicable filing fee. Any appeal not submitted within twenty (20) days after the decision which is the subject of the appeal shall not be considered by the Governing Body. The day of determination is not included in the twenty (20)-day period for filing of appeal, and if the twentieth (20th) day falls on a Saturday, Sunday, or national holiday, the next working day is considered the deadline for filing the appeal.

(c) *Public hearing.* The decision of an appeal shall be made by the Governing Body following a public hearing. The hearing at which an appeal will be heard must receive legal notice.

(d) *Stay of proceedings.* A proper appeal by an aggrieved party shall stay all proceedings in the action unless the Administrator or Planning and Zoning Commission determines that a stay will cause

imminent peril to life or property. Upon such certification, the proceedings shall not be stayed except by order of a court of competent jurisdiction.

(e) *Decision.* An appeal shall be decided within sixty (60) days of the date of application of the appeal. A majority vote of the members of the Governing Body is required to reverse, change or affirm a decision made by the Administrator or Planning and Zoning Commission.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Section 18-172. Obstruction of water conveyance or storage structures prohibited.

(a) *Water conveyance channels and water control structures to be kept clear of obstructions.* No person or entity shall erect or cause to be erected or place or cause to be placed any fence, wall, building, structure, stand or object, nor shall any person or entity deposit or cause to be deposited any trees, timber, gravel, rock, leaves, weeds, sod, brush, waste, rubbish, construction materials or other material within any water conveyance channel or water storage structure located on any public land within the Village, nor within any water conveyance or water storage structure on private land that is required to be constructed, installed, preserved or maintained pursuant to any ordinance, rule or regulation of the Village or any other governmental body. All such water conveyance channels and water storage structures shall at all times be kept free of mud, sediment, detritus, debris, vegetation or any other material of any sort that could interfere with the flow or storage of water in such structure during regular use or after any precipitation event. For purposes of this section, the term “water conveyance channel” shall include any natural or constructed water channel or arroyo that conveys flood waters during a 10-year flood.

(b) *Landowner responsibility.* Where a water conveyance channel or water storage structure on private land is required to be installed, constructed or maintained pursuant to a Village ordinance, rule, regulation or permit, including but not limited to a development review permit, site development plan, special use permit, subdivision approval, or any other land use permit or approval of the Village, the landowner or other responsible party shall maintain the structure free of encroachments, mud, sediment, detritus, debris or vegetation, and shall remove or cause the removal of any mud, sediment, detritus or debris that may have accumulated in the structure within fifteen (15) calendar days following the accumulation thereof.

(c) *Penalties and correction of violations.*

- (1) *Penalty for violation.* Any person who violates any provision of this Section 18-172 shall be subject to punishment in accordance with Section 1-6. Each day that a violation continues after notification by the Village requiring correction thereof shall constitute a separate offense.
- (2) *Village correction of violation; recovery of costs.* In the event that a landowner after notification by the Village fails to correct any violation under this Section 18-172, or if the immediate correction of any such violation is necessary to protect the public health, safety or welfare or to avoid an imminent threat of injury or damage to persons or property, the Village in its sole discretion may undertake to correct or cause the correction of the violation on either public or private property, with or without the permission of the owner thereof. In any such case, the Village may require that the property owner or owners responsible for the violation reimburse and make the Village whole for the costs incurred by the Village to correct the violation.
- (3) *Option to seek injunctive or other relief.* In addition or as an alternative to any penalty or requirement of reimbursement imposed or required under Section 18-172(c)(1) or 18-172(c)(2), the Village may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or to enjoin the violation of, any provision of this Section 18-172, and in such action may seek further to recover the Village’s costs, including costs of litigation and attorney

fees, incurred as a result of the need to maintain such action or proceeding.

History: Ord. No. 15-06, adopted 2-24-15.

Section 18-173. Violations.

Any violation of this article shall be punishable in accordance with Section 1-6. Each day that a construction project remains in violation of this article, whether or not the owner, builder, or other responsible party has been notified of such violation, shall be deemed a separate offense subject to the penalties provided in Section 1-6.

History: Ord. No. 06-03 § 1, adopted 10-24-06; Ord. No. 09-004, adopted 5-19-09; Ord. No. 09-017, adopted 12-1-09.

Sections 18-174 to 18-200. Reserved.

ARTICLE VI. TELECOMMUNICATIONS FACILITIES

Federal law reference – Telecommunications Act, 47 U.S.C. §§ 303, 309, 331, 332

State law reference – Amateur radio antennas, NMSA 1978, § 5-12-1

Section 18-201. Purpose.

(a) The purpose of this Article is to provide for the appropriate placement, construction, maintenance and modification of Amateur Radio Facilities, Commercial Radio Facilities and Personal Wireless Telecommunications Facilities within the Village of Corrales, in accordance with the Telecommunications Act of 1996 (Pub. L. 104-104), as amended and supplemented, and other applicable federal and State laws and regulations.

(b) This Article is necessary to facilitate and provide for the rational location, placement, erection, construction, maintenance and decommissioning of Wireless Telecommunications Facilities so as to provide fully adequate communications capabilities throughout the Village while protecting and preserving the appropriate uses of land; protecting the quality of water and other natural resources, conserving the value of commercial, residential and agricultural properties throughout the Village; maintaining the rural character of the Village; and providing for the public health, safety and welfare.

(c) This Article is further necessary to establish a fair, efficient and consistent process for review and approval of applications for the location, placement, erection, construction, modification, maintenance and decommissioning of Wireless Telecommunications Facilities in the Village. The provisions of this Article are intended to provide a process and a set of standards for the location, placement, erection and construction of Wireless Telecommunications Facilities in order to:

- (1) Implement Village policy concerning the provision of wireless telecommunications services and the siting of facilities for that purpose;
- (2) Establish clear guidelines, standards and time frames for the exercise of Village authority to regulate Wireless Telecommunications Facilities in accordance with 47 U.S.C. § 332 and other applicable federal and State regulations;
- (3) Allow for effective competition in provision of commercial telecommunications services;
- (4) Encourage the provision of advanced and enhanced telecommunications services to the largest feasible number of businesses, institutions and residences in the Village;
- (5) Permit and manage reasonable access to publicly owned lands of the Village for

telecommunications purposes on a competitively neutral basis;

- (6) Ensure that all telecommunications providers and participants, whether amateur or commercial, comply with applicable ordinances of the Village;
- (7) Encourage the centralized location and collocation of Wireless Telecommunications Facilities so as to minimize adverse visual and other impacts of such facilities;
- (8) Further the goals and objectives of the Comprehensive Plan while promoting orderly development of the Village with minimal impacts on existing uses;
- (9) Ensure continued protection of the public health, safety, and welfare; and
- (10) Protect the scenic, visual and agricultural character of the Village.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-202. Jurisdiction and Scope.

(a) *Jurisdiction.* This Article is adopted pursuant to the Village's planning and zoning authority under Chapter 3, Articles 19, 20 and 21, NMSA 1978, and under the authority of 47 U.S.C. § 332(c)(7).

(b) *Scope.* Except as specifically exempted in this Section 18-202, this Article governs all real property located within the corporate limits of the Village and all telecommunications facilities located within the corporate limits of the Village, including but not limited to Amateur Radio Facilities, Commercial Radio Facilities, Unlicensed Wireless Services and Wireless Telecommunications Facilities, including Personal Wireless Telecommunications Facilities.

(c) *Exemptions.* The following facilities and antennas shall be exempt from the provisions of this Article:

- (1) Non-commercial Wireless Telecommunications Facilities located entirely on lands owned by the Village and zoned M for municipal and quasi-municipal purposes, and telecommunications facilities of any sort that are owned by the Village and operated solely for non-commercial purposes.
- (2) Emergency or temporary Wireless Telecommunications Facilities for communications by public officials during emergencies or special events.
- (3) Antennas less than seven (7) feet in diameter and with an Antenna Profile less than 38.5 square feet that are an accessory use for reception of radio or television signals.
- (4) Antennas for the reception of commercial radio or television signals as an accessory structure of a residential dwelling unit, providing that they do not exceed a height of five (5) feet above the highest point of the residential dwelling unit.
- (5) Wireless Telecommunications Facilities existing on the date of adoption of this Article, provided that any visible modification of any such Wireless Telecommunications Facility, except those on M-zoned lands owned by the Village, must be in compliance with applicable provisions of this Article.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-203. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meaning ascribed to them in this section, unless a different meaning or interpretation is clearly required by the context. Any word, term or phrase not defined in this section shall have the meaning ascribed to it in Section 18-29 or in Section 1-2, if defined therein. The singular shall include the plural and the plural shall include the singular of any term listed.

Accessory Facility, Accessory Structure or Accessory Use means a facility, structure or use that is clearly incidental and subordinate to principal facilities, structures or uses on the same property.

Administrator means the Planning and Zoning Administrator of the Village.

Amateur Radio Facility means an antenna or any other radio transmitter or receiver operated for non-commercial purposes, whether or not licensed under the FCC's amateur radio service regulations, 47 C.F.R. § 97.1 *et seq.*

Antenna or Antennas means a system of electrical conductors or other equipment that transmits or receives radio frequency electromagnetic waves or other wireless signals, including but not limited to radio, television, cellular, paging, Personal Telecommunications Services, microwave telecommunications and similar services, whether or not licensed by the FCC, but does not include any such equipment expressly exempted from the provisions of this Article.

Antenna Profile means the total surface area of a single circle or square placed immediately adjacent to the antenna which would be required to completely obscure the antenna from view.

Applicant means any person submitting an application for approval of a site development plan, use by review, variance or any other approval required under this Article.

Application means a written request with all necessary supporting documents and payment of fees pursuant to this Article requesting consideration by the Village of a proposed site development plan, use by review, variance or any other approval required under this Article.

Collocation means the use of a tower, structure or other Wireless Telecommunications Facility for multiple antennas of multiple telecommunications service providers.

Commercial Radio Facility means an antenna or any other radio or television transmitter or receiver licensed or operated for commercial purposes.

Commission means the Planning and Zoning Commission of the Village.

Comprehensive Plan means the Village of Corrales Comprehensive Land Use Plan adopted August 11, 2009, including any amendments or supplements thereto.

Corrales Road Commercial Area means the Corrales Road Commercial Area (CRCA) as defined in Sections 18-37(1) and (2).

Dwelling unit means any building or part of a building intended for human occupancy and containing one or more connected rooms and a single kitchen, designed for one family for living and sleeping purposes.

FAA or Federal Aviation Administration means the Federal Aviation Administration of the United States government and any successor agency thereto.

FCC or Federal Communications Commission means the Federal Communications Commission of the United States government and any successor agency thereto.

Height means the vertical distance measured from the lowest undisturbed grade adjacent to a tower, building or other structure to the highest point of the structure, including any antenna or other structural element mounted on the structure.

Legal notice means giving the public notice of a hearing at least 30 days before the date of the hearing, by posting in the Village and also by mailing written notice by certified mail, return receipt requested, not less than 15 days before the date of the hearing, to the owners of all property within 300 feet of the exterior boundaries, excluding public right-of-way, of the property on which a hearing has been requested, using for these purposes the last known name and address of the owners shown in the records of the County Assessor.

Neighborhood Commercial and Office District means the Neighborhood Commercial and Office District (NCOD) as defined in Sections 18-37(1) and (2).

NIER means non-ionizing electromagnetic radiation.

NMSA 1978 means the New Mexico Statutes Annotated, 1978 compilation as amended.

Person means any individual, corporation, estate, trust, partnership, joint stock company, association, limited liability company, association of two or more persons having a joint common interest, or any other entity.

Personal Wireless Services or Personal Telecommunications Services means commercial mobile services, unlicensed wireless services, common carrier wireless exchange access services and any other services described in the Telecommunications Act at 47 U.S.C. § 332(c)(7)(C)(i), as amended and supplemented from time to time.

Personal Wireless Telecommunications Facility or Personal Wireless Service Facility means any facility for the provision of Personal Wireless Services as described in the Telecommunications Act at 47 U.S.C. § 332(c)(7)(C)(ii), as amended and supplemented from time to time.

Scenic view means a largely unobstructed vista or view of natural elements generally recognized as contributing to the amenities of life and activities in the Village, including but not limited to views of the Sandia Mountains, of the Rio Grande, of agricultural fields and pasture within the Village, and of the Bosque Nature Preserve. *Scenic view* also includes views of or from buildings having historic or cultural significance, such as but not limited to the Old San Ysidro Church and Casa San Ysidro.

Setback means the minimum distance between any building or structure, including towers and antennas, and a boundary line of the lot, parcel or tract of land upon which the building or structure is located.

Stealth or Stealth Technology means the practice or the implementation of a Tower or other Personal Wireless Telecommunications Facility that is intended or designed to minimize adverse aesthetic and visual impacts by giving the appearance of a natural object, a building or any other physical object or element that is integrated into and appears to be a part of the natural or structural landscape of the area in which it is located.

Telecommunications means the transmission and/or reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

Telecommunications Act means the Telecommunications Act of 1996 (Pub. L. 104-104), adopted February 8, 1996, and the regulations adopted thereunder, as amended and supplemented from time to time.

Tower means a framework or structure more than five (5) feet tall used or intended to be used for the installation of antennas or other equipment used in the support of telecommunications devices, whether free-standing or mounted atop or upon another structure.

Unlicensed Wireless Services means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but not including the provision of direct-to-home satellite services, as described in the Telecommunications Act at 47 U.S.C. § 332(c)(7)(C)(iii), as amended and supplemented.

Wireless Telecommunications Facility means any tower, structure, building or other installation providing or intended to provide support for or to contain any antenna or other device for transmission of radio or television signals, Personal Wireless Services, Unlicensed Wireless Services, cellular telephone services, specialized mobile radio communications, personal communications or pager services or any similar telecommunications services, whether or not regulated by the FCC, and includes but is not limited to Amateur Radio Facilities, Commercial Radio Facilities, and Personal Wireless Telecommunications Facilities.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-204. Declaration of Policy.

(a) *In general.* It is the intent and policy of the Village to encourage and promote telecommunications services and facilities to provide modern, state-of-the-art telecommunications services to businesses, governmental entities and residences in the Village, and to provide for the public health, safety and welfare, including emergency communications capabilities, while maintaining the rural character of the Village and protecting environmental values, including the scenic and visual character of the community.

(b) *Specific policies and objectives.* In furtherance of the foregoing intent and policy, telecommunications facilities in the Village shall be so located and constructed that, to the maximum extent reasonably possible, they will:

- (1) Be consistent with the goals, objectives and policies of the Comprehensive Plan;
- (2) Be located in areas where they will not be visibly obtrusive or encroach upon historic or scenic resources;
- (3) Avoid to the maximum extent feasible the location of Commercial Radio Facilities or Personal Wireless Telecommunications Facilities in close proximity to residential and agricultural properties;
- (4) Minimize the proliferation of facilities and antennas by providing for collocation of Wireless Telecommunications Facilities and antennas to the maximum extent reasonably possible; and
- (5) Be designed to have an appearance that is in harmony with other structures, vegetation and land uses on the property where the telecommunications facility is located and on adjacent and nearby properties, using Stealth Technology where appropriate.

Section 18-205. Amateur Radio Facilities – Special Rules for Residential Use.

(a) *Permissive use; limitations.* Amateur Radio Facilities are permitted as accessory uses to residences in the A-1 or A-2 zone, without special permit, provided that the use of such Amateur Radio Facilities meets each of the requirements set forth in the following Subsection (b) of this Section. In no instance shall a Wireless Telecommunications Facility be installed in zones which are designated as H (Historical).

(b) *Requirements.* An Amateur Radio Facility, to qualify as a permissive use in the A-1 or A-2 zone, shall meet each of the following requirements and limitations:

- (1) *Residential accessory use.* The use of the Amateur Radio Facility shall be accessory to the primary use of a residential dwelling unit occupied on a continuing basis by at least one person who is licensed by the FCC for amateur radio operations. Proof of licensure must be available on demand. The Amateur Radio Facility shall not under any circumstances be used for any commercial purpose.
- (2) *Height restrictions.* The Amateur Radio Facility, including any and all towers or antennas, shall not at any time exceed twenty-six (26) feet in height or eight (8) feet above the highest point of the dwelling unit, whichever is lower.
- (3) *Setback.* The Amateur Radio Facility shall be set back from all property boundaries by at least one hundred ten percent (110%) of its total height above grade or by the applicable setback distance provided in Chapter 18, Article II, whichever is greater.
- (4) *Lighting.* Lighting of the Amateur Radio Facility is not permitted.
- (5) *Abandonment.* An Amateur Radio Facility erected pursuant to this Subsection shall be deemed abandoned and shall be removed within 90 calendar days following an event such that no resident of the dwelling unit to which it is accessory possesses a current FCC license for amateur radio operations.

(c) *Other Amateur Radio Facilities.* Amateur Radio Facilities not meeting all requirements of Subsection 18-205(b) may be permitted as Wireless Telecommunications Facilities upon application and review, as provided in Subsections 18-206 through 18-213, inclusive, of this Article.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-206. Wireless Telecommunications Facilities – Permits.

(a) *Permit required.* Except for Amateur Radio Facilities meeting all requirements of Subsection 18-205(b), no Wireless Telecommunications Facility shall be constructed, erected or visibly modified anywhere in the Village except in accordance with a telecommunications facility permit issued by the Village. A telecommunications facility permit shall be required for all new construction, for any modification that increases the height of the facility, for expanded use of an existing Wireless Telecommunications Facility and for collocation of new antennas or other facilities upon an existing Wireless Telecommunications Facility, unless such collocation was included within the scope of the original telecommunications facility permit.

(b) *Pre-application conference.* Before submitting an application for a telecommunications facility permit, the applicant shall schedule a meeting with the Administrator. At the meeting the applicant and the Administrator shall review the applicant's proposal, the provisions of this Article and other applicable ordinances of the Village, the relationship of the proposed facility with the Village's comprehensive plan, and the necessary application forms and other submittal documents. The Administrator, at his or her sole discretion, shall be able to include additional personnel during this

meeting for professional review and consultation.

(c) *Application, copies and fees.* All applications for a telecommunications facility permit shall be submitted to the Administrator along with required supporting materials and payment of all applicable fees. The application will not be deemed complete until all supporting materials are received by the Village and all fees have been paid. The applicant shall supply fourteen (14) complete sets of the application and all supporting materials.

(d) *Content of application.* The application and supporting documentation shall include, as a minimum, the materials described in this Subsection. In addition, the application and supporting documentation shall include all materials necessary for the Commission to evaluate the proposed antenna, tower, or Wireless Telecommunications Facility, including any materials reasonably necessary to support any assertion by the applicant that the proposed facility is necessary to avoid unreasonable discrimination among providers of wireless telecommunications services, to avoid the effective prohibition of wireless telecommunications services contrary to the Telecommunications Act, or to meet any other requirement of the Telecommunications Act.

- (1) *Collocation.* An application for collocation on an existing permitted tower or other structure shall include, as a minimum, the following materials.
 - a. The name, address, telephone number and e-mail address of the applicant, the owner of the real property upon which the tower or other structure is located, the owner of the tower or structure, and the owners and operators of all other antennas on the tower or structure.
 - b. A copy of the lease agreement or other documentation establishing the right to collocate on the tower or structure.
 - c. Design drawings and specifications prepared by a structural engineer licensed in the State of New Mexico showing the proposed installation and establishing that the tower or structure is adequate to support it along with other installations already on the tower or structure.
 - d. A narrative description showing the need for the new antenna or other facility, how the new antenna or other facility will be integrated into the applicant's telecommunications network, and how the new antenna or other facility, if approved, will improve the availability or reliability of telecommunications services in the Village.
 - e. Certification that NIER levels at the proposed site, including all existing and proposed antennas and other facilities, are within the threshold levels adopted by the FCC.
 - f. A copy of the FCC license applicable to the intended use of the new antennas or facilities at the Wireless Telecommunications Facility.
 - g. All other materials reasonably necessary to document the need for the proposed antenna or other facility, and the appropriateness of collocation on the selected tower or other structure.
- (2) *Application for a new tower or other structure.* If the application includes a new tower or other structure for the placement of a Wireless Telecommunications Facility, the applications shall include, as a minimum, the following materials. The requirements of this Subsection 18-206(d)(2) shall also apply to any application for collocation on any existing tower or other structure that was not approved by the Commission or the Governing Body, or that was approved by the Commission or Governing Body only after appeal to a court of competent

jurisdiction and entry of an order reversing a previous denial by the Governing Body.

- a. The name, address, telephone number and e-mail address of the applicant, the owner of the real property upon which the Wireless Telecommunications Facility will be located, the owner of the proposed tower or structure, and the owner and operator of any antennas or other telecommunications facilities to be located on the tower or other structure, to the extent known at the time of application.
- b. A copy of the lease agreement or other documentation establishing the right to erect the tower or other structure on the property, if the Wireless Telecommunications Facility is not owned by the owner of the real property.
- c. Design drawings, elevations and specifications prepared by a structural engineer licensed in the State of New Mexico showing the proposed Wireless Telecommunications Facility, including all antennas and other elements to be located on the Wireless Telecommunications Facility.
- d. A narrative description showing the need for the new Wireless Telecommunications Facility or the new antennas or other elements to be located on the Wireless Telecommunications Facility, how the new antenna or other facility will be integrated into the applicant's telecommunications network, and how the new Wireless Telecommunications Facility or new antenna or other elements, if approved, will improve the availability or reliability of telecommunications services in the Village.
- e. Documentation of the applicant's efforts, if any, to collocate the proposed antennas on existing towers or structures in the vicinity. If it is the applicant's position that no existing tower or structure is adequate for applicant's telecommunications needs, or that applicant has made reasonable efforts to collocate on other Wireless Telecommunications Facilities and been denied, then applicant must provide all materials sufficient to establish that applicant has considered all reasonable alternatives and that none of them will meet the applicant's reasonable needs.
- f. A complete site development plan, including all elements required under Section 18-45(b).
- g. A cultural resources report by a qualified professional identifying and describing all sites, buildings, existing structures, cultural resources or objects significant in history, architecture, archaeology, or engineering and any places listed or eligible for listing on the National Register of Historic Places or the New Mexico State Register of Cultural Properties within one mile of the property where the proposed Wireless Telecommunications Facility will be located,
- h. A scenic and landscaping plan showing the appearance of the proposed Wireless Telecommunications Facility from all streets, roads and recreational trails within one-half (0.5) mile of the property where located and from all sites, buildings, existing structures, cultural resources or other objects identified in the cultural resources report, and including a landscaping plan or other plan showing how the visual effect of the proposed Wireless Telecommunications Facility will be mitigated.
- i. Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC.
- j. A copy of the FCC license applicable to the proposed Wireless Telecommunications Facility.

- k. A lifecycle plan describing in reasonable detail the inspection and maintenance schedule for the proposed Wireless Telecommunications Facility, any other anticipated activities relating to the Wireless Telecommunications Facility during its useful life, and plans for the decommissioning and removal of the Wireless Telecommunications Facility at the end of its useful life.
- l. All other materials reasonably necessary to document the need for the proposed tower or other structure and the Wireless Telecommunications Facility to be located thereon.

(e) *Completeness of application and supporting materials.* **It is the sole responsibility of the applicant to provide ALL required documentation and other materials necessary to support the application and to provide appropriate testimony in support of the application before the Commission. In the event that applicant withholds information at proceedings before the Commission and/or the Governing Body, and then seeks to introduce such evidence or testimony on appeal to the judiciary, applicant's failure to provide the required material at hearing before the Commission and the Governing Body shall be deemed a defense against applicant's appeal.**

(f) *Review of application.* Upon receipt of an application and fees under this Article, the Administrator will issue a dated receipt for the application and fees. The Administrator will then review the application and supporting materials and make a determination whether the application appears to be complete. If the application appears to be complete, the Administrator will so notify the applicant, in writing, and will forward the application to appropriate Village departments for review. In addition, if the Administrator in consultation with the chair of the Commission determines that expert assistance will be necessary or beneficial for the consideration of the application by the Commission, the Administrator may retain expert assistance at the expense of the applicant and forward the application to any such experts to assist the Village in review of the application. The review period shall be no more than forty-five (45) days. Written comments of all reviewers shall become part of the record presented to the Commission along with the application.

(g) *Incomplete applications.* If the Administrator determines that an application is incomplete, the Administrator will notify the applicant in writing, specifying the additional materials needed to complete the application. The applicant shall provide the additional materials needed within sixty (60) days following notification of incompleteness by the Administrator, unless an additional time is permitted by the Administrator in the Administrator's sole discretion. If the additional materials are not timely submitted by the applicant, the application will be summarily denied by the Administrator.

(h) *Balloon test.* To better inform the public regarding a proposed new Wireless Telecommunications Facility, the applicant may be required to conduct a "balloon test" prior to the public hearing on the application. A balloon test shall be required in all cases where the applicant seeks a variance from any height restriction contained in this Article. A balloon test may also be required, at the discretion of the Administrator, in other cases where the visibility or the appearance of the proposed Wireless Telecommunications Facility is likely to be a matter of public concern. If a balloon test is required, the applicant shall arrange to fly, or raise upon a temporary mast, a brightly colored balloon with a minimum diameter of three (3) feet at the maximum height of the proposed new tower for a minimum of six (6) consecutive hours between 7:00 a.m. and 4:00 p.m. on the required date. The applicant shall provide a primary planned date for the balloon test, and at least one alternate date in the event of poor visibility on the primary planned date. Notice of the balloon test in a form approved by the Administrator, including the hours of the test and the primary and alternate dates, shall be published in a newspaper of general circulation in the Village on two dates, at least seven (7) days apart, the second of which shall be no later than one week before the primary planned date. In addition, notice of the test shall be provided to the editor of any newspaper published within the Village, even if such newspaper does not qualify for publication of legal notices under New Mexico law.

(i) *Hearing.* A complete application under this section, including an application for variance, shall be considered by the Commission at a regular or special meeting at the earliest convenient opportunity, but no sooner than twenty (20) days after the end of the review period described in Subsection 18-206(f). The hearing shall receive legal notice as provided in Section 18-203.

(j) *Public notification.* The hearing before the Commission at which an application for a Wireless Telecommunications Facility will be heard must receive legal notice. In addition to legal notice, the Administrator will provide the applicant with a notification sign, which contains information pertinent to the application. The sign must be displayed by the applicant in a location visible and prominent to the general public on the property where the proposed Wireless Telecommunications Facility will be located for at least fifteen (15) days prior to the date of the hearing.

(k) *Commission decision.* The Commission upon completion of the hearing on any application under this Article, including an application for variance, may (1) grant the application; (2) grant the application subject to reasonable conditions necessary to protect the health, safety, welfare, property values or aesthetic values of the community; or (3) deny the application. Any motion to deny the application or to grant the application subject to conditions shall include a statement of the reasons for the proposed action, which shall be recorded in the minutes of the Commission meeting.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-207. Wireless Telecommunications Facilities – Location and Placement.

(a) *Municipal properties—permissive use.* Wireless Telecommunications Facilities shall be a permissive use on properties owned by the Village that are zoned M for municipal, public and quasi-public uses. Applicants seeking to locate, erect or modify a Wireless Telecommunications Facility on any such property shall first negotiate with the Village administration and enter into a contract setting forth the conditions for such Wireless Telecommunications Facility, and shall enter into an appropriate lease agreement for the proposed Wireless Telecommunications Facility. In the event that the Wireless Telecommunications Facility will require a variance or modification from any provision of this Article, the application for the required variance or modification will be submitted by the applicant after the lease agreement has been fully approved and executed, unless by mutual agreement the parties determine that execution of the lease agreement should be deferred pending a decision on the application. If the application is not approved by the Commission or, on appeal, by the Governing Body, the lease shall thereupon be void and of no effect.

(b) *C and M zoned properties—use by review.* Wireless Telecommunications Facilities shall be a use by review on properties zoned C for neighborhood commercial use or on non-Village owned properties zoned M for municipal, public and quasi-public uses, upon approval of a site development plan and a telecommunications facility permit incorporating the proposed Wireless Telecommunications Facility.

(c) *Prohibited locations.* Except for Amateur Radio Facilities meeting all requirements set forth in Subsection 18-205(b), Wireless Telecommunications Facilities are prohibited on properties zoned A-1 or A-2 for agricultural and rural residential uses. All Wireless Telecommunications Facilities of any type are prohibited in the H historical area zone.

(d) *Protection of scenic views.* Wireless Telecommunications Facilities shall not be erected in any location where the Wireless Telecommunications Facility will obstruct a scenic view from a public park, public recreational trail or pathway, public recreational facility or natural area (including but not limited to the Bosque Preserve), or from any other public location, unless it is shown that the Wireless Telecommunications Facility in that location is essential for the provision of wireless telecommunications services and that no less intrusive alternative exists. It is the duty of the applicant to demonstrate the necessity of the facility and the absence of a less intrusive alternative, taking into account all reasonable

alternative locations, designs and heights for the proposed telecommunications facility.

(e) *Setback.* All Wireless Telecommunications Facilities shall be set back from property boundaries by at least one hundred ten percent (110%) of the total height of the facility, including all antennas and other structures located thereon, or by the applicable setback distance provided in Chapter 18, Article II, whichever is greater.

(f) *Collocation.* It is the policy of the Village that Wireless Telecommunications Facilities shall be collocated to the maximum extent reasonably feasible, to minimize adverse aesthetic and other impacts of multiple facilities located within a small geographic area. No new tower for a Wireless Telecommunications Facility exceeding twenty-six (26) feet in height shall be permitted within one (1) mile of any existing tower or other Wireless Telecommunications Facility having a height greater than twenty-six (26) feet unless the applicant demonstrates, with appropriate documentation satisfactory to the Village, that:

- (1) location of antennas on the existing tower or Wireless Telecommunications Facility will not serve the legitimate telecommunications needs of the applicant;
- (2) location of antennas on the existing tower or Wireless Telecommunications Facility is not technically feasible due to lack of space, interference with facilities already located on the tower, or other legitimate technical reason;
- (3) if location of antennas on the existing tower or Wireless Telecommunications Facility would serve the legitimate telecommunications needs of the applicant and is technically feasible, applicant has negotiated in good faith with the owner of the existing tower and has been unable to reach an agreement for the use of that tower; or
- (4) location of antennas on the existing tower or Wireless Telecommunications Facility is not feasible for another reason, which shall be fully documented and proven in the application and supporting documentation.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-208. Wireless Telecommunications Facilities – Design and Construction.

All Wireless Telecommunications Facilities, except Amateur Radio Facilities meeting all requirements set forth in Subsection 18-205(b), shall conform to the design and construction requirements set forth in this Section unless granted a variance or exception for good cause shown.

(a) *Height.* Towers, antennas and other Wireless Telecommunications Facilities shall not exceed the following heights:

- (1) Eighty-five (85) feet on M zoned properties owned by the Village.
- (2) Forty-five (45) feet on C zoned properties within the Corrales Road Commercial Area or the Neighborhood Commercial and Office District.
- (3) Twenty-six (26) feet on all other properties.

(b) *Visual appearance.* All Wireless Telecommunications Facilities shall be designed to fit in with their surroundings, including the buildings, vegetation, and other elements on the property where the Wireless Telecommunications Facility is located and those on adjacent and nearby properties, and to be minimally obtrusive visually from adjacent properties and from roadways, paths, trails, and other public areas. Towers and other Wireless Telecommunications Facilities shall employ one or more of the following strategies to minimize visual obtrusion:

- (1) integration into existing structures on the site, such as roof mounting, location in an existing church steeple, bell tower, clock tower or similar structure, or collocation on an existing tower without increasing its height;
- (2) placement in a new tower or structure specifically designed to match existing structures on the site, such as a new bell tower, clock tower, church steeple, or similar structure adjacent to and architecturally compatible with the style commonly referred to as Northern New Mexico Architecture;
- (3) Stealth Technology wherein the tower or other Wireless Telecommunications Facility is designed to resemble a common landscape element such as a flag pole, a water tank, or a tree of a type or species that naturally occurs or is commonly maintained for fruit production or landscaping in the Corrales area.

(c) *Lighting.* The Wireless Telecommunications Facility shall not be lighted unless lighting is specifically required by applicable law or regulation of the FAA, the FCC, or other authority having jurisdiction. Lighting if so required shall be the minimum necessary to meet the regulatory requirements, and shall to the maximum extent possible conform to the lighting standards set forth in Section 18-42.

(d) *Natural Resource Protection.* The construction method shall not adversely impact natural resources including but not limited to resources such as the existing water table, water runoff or soil conditions.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-209. Wireless Telecommunications Facilities – Performance.

(a) *Continuing compliance.* All Wireless Telecommunications Facilities in the Village shall on a continuing basis conform to and with the safety, environmental and performance standards set forth in this Section and elsewhere in this Article. Failure to meet such standards at any time shall be grounds for revocation of any permit or license granted by the Village and shall be cause for removal of the non-compliant Wireless Telecommunications Facility or any non-compliant portion thereof.

(b) *Fiscal responsibility—Performance security and insurance.* Except for Amateur Radio Facilities meeting all requirements of Section 18-205(b), each applicant for approval of a Wireless Telecommunications Facility and the owner of the property on which the Wireless Telecommunications Facility is proposed to be erected, if different from the applicant, shall at the applicant's or property owner's expense execute and file with the Village a bond or other form of security acceptable to the Village as to the type of security and the form and manner of execution, in an amount of at least seventy-five thousand dollars (\$75,000.00), with such sureties as are deemed sufficient by the Village to assure the faithful performance of the terms and conditions of this Article and the conditions of any telecommunications facility permit issued pursuant to this Article. Applicant and property owner may, at their discretion, execute or provide a joint bond or other acceptable security to fulfill the requirements of this Subsection. The full amount of the bond or security shall remain in full force and effect throughout the term of any telecommunications facility permit issued by the Village pursuant to the application, and shall further remain in full force and effect until removal of the Wireless Telecommunications Facility and any site restoration work required to restore the site to a condition comparable to that before the construction of the Wireless Telecommunications Facility.

Every holder of a telecommunications facility permit authorizing a Wireless Telecommunications Facility as a use by review shall secure and, at all times while the telecommunications facility permit remains in effect or the Wireless Telecommunications Facility exists, maintain in full force general liability insurance for personal injuries, death and property damage, or umbrella insurance coverage, in the following minimum coverage amounts:

- (1) Commercial general liability coverage for personal injuries, death, environmental and property damage in an amount no less than \$1,000,000 per occurrence and \$2,000,000 aggregate;
- (2) Automobile coverage in an amount no less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and
- (3) Workers compensation and disability insurance in the amounts required by statute.

Bond and insurance requirements for Wireless Telecommunications Facilities located on Village-owned properties shall be as required in the applicable leases, contracts or other agreements between the Village and the providers of wireless telecommunications services.

(c) *Site security.* All Wireless Telecommunications Facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. In particular:

- (1) all antennas, towers, base structures, electrical equipment and all other components, shall be made inaccessible to individuals and shall be constructed or shielded in such a manner that they cannot be climbed or collided with; and
- (2) all electrical equipment and telecommunications control points shall be installed and protected in such a manner that they are readily accessible only to persons authorized to operate or service them.

(d) *Signage.* Every Wireless Telecommunications Facility, except Amateur Radio Facilities, shall have on the premises a sign no larger than four (4) square feet, prominently located, notifying persons in the area of the presence of an antenna that has transmission capabilities. The sign shall contain the name of the Wireless Telecommunications Facility owner or operator and an emergency telephone number that is monitored at all times. Where multiple owners or operators have facilities collocated on a single Wireless Telecommunications Facility, each owner or operator shall have such a sign, or the owners and operators may cooperate to provide all necessary information on a single sign. The sign or signs shall be on the equipment shelter of the owner or operator or in another prominent location, and shall be clearly visible from the primary entrance or access point to the site. The sign shall not be lighted unless required by applicable law or regulation of the FAA, the FCC, or other authority having jurisdiction. Lighting if so required shall be the minimum necessary to meet the regulatory requirements, and shall to the maximum extent possible conform to the lighting standards set forth in Section 18-42. No other signage, including advertising signs, shall be permitted.

(e) *Removal of Wireless Telecommunications Facilities.* The owner or operator of a Wireless Telecommunications Facility shall promptly remove the Wireless Telecommunications Facility when no longer in use. Under the following circumstances, the Village may determine that the health, safety, and welfare interests of the Village warrant and require the removal of Wireless Telecommunications Facilities:

- (1) A permitted Wireless Telecommunications Facility has been abandoned and not used for a period exceeding ninety consecutive (90) days, or has not been used for a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair shall be completed within 90 days of the initial date of inoperability, or removal shall commence within ninety (90) days of the initial date of inoperability or written notice;
- (2) A permitted Wireless Telecommunications Facility falls into such a state of disrepair that it creates a health or safety hazard;

- (3) A Wireless Telecommunications Facility has been located, constructed, or modified without first obtaining, or in a manner not authorized by, a required telecommunications facility permit, site development plan or any other necessary authorization; or
- (4) A Wireless Telecommunications Facility is not in compliance with applicable federal, state or local law or regulations.

(f) *Removal procedure.* If the Village makes a determination that a Wireless Telecommunications Facility must be removed as provided in the foregoing Subsection 18-209(e), the Village shall notify the owner or the holder of the telecommunications facility permit for the Wireless Telecommunications Facility and the owner of the property on which it is located that the Wireless Telecommunications Facility must be removed, and shall provide a reasonable time for the owner or operator of the Wireless Telecommunications Facility to effect such removal, taking into account the need for any substitute facility and the health, safety, and welfare of the public. The following procedures shall apply:

- (1) The holder of the telecommunications facility permit, or its successors or assigns, shall dismantle and remove the Wireless Telecommunications Facility, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is reasonably practicable, within ninety (90) days of receipt of written notice from the Village or within such other period as the Village may prescribe in such notice.
- (2) If the Wireless Telecommunications Facility has not been removed or substantial progress has not been made to remove the Wireless Telecommunications Facility within ninety (90) days after the permit holder has received notice, or within such other period as prescribed by the Village, then the Village may order the removal of the Wireless Telecommunications Facility by authorized officers or contractors of the Village, at the sole expense of the landowner, Facility owner or telecommunications facility permit holder, the cost of removal of which shall be a lien upon the property enforceable in accordance with NMSA 1978, §§ 3-36-1 through 3-36-6.
- (3) If the Village removes, or causes to be removed, a Wireless Telecommunications Facility, and the owner thereof does not claim and remove the tower, antenna, or other structural elements from the site to a lawful location within ten (10) days, then the Village may take steps to declare such tower, antenna or other structural elements abandoned, and sell them and their components.
- (4) Notwithstanding any other provision of this Subsection 18-209(f), the Village may approve a temporary use permit or agreement for the continuance in place of a permitted Wireless Telecommunications Facility, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facility may be developed by the holder of the telecommunications facility permit, subject to the approval of the Village, and an agreement reflecting such plan may be entered into and executed by the holder of the telecommunications facility permit and the Village. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Village may take possession of and dispose of the affected Wireless Telecommunications Facility in the manner provided in this Subsection.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-210. Variances; Application and Standards for Approval.

(a) *Application for variance.* An applicant seeking a variance from any provision of this Article in relation to any proposed or existing Wireless Telecommunications Facility, whether as to

height, location, design or any other element of the Wireless Telecommunications Facility, shall submit a completed application for variance, with all required fees, sets of design drawings and supporting documentation as described in this Section, to the Administrator. The applicant shall provide fourteen (14) complete sets of the application and all supporting materials. If the variance request is for a new Wireless Telecommunications Facility requiring a telecommunications facility permit (use by review), the application for variance shall accompany the application for the telecommunications facility permit.

(b) *Pre-application conference.* Before submitting an application for a variance under this Section, the applicant shall schedule a meeting with the Administrator. At the meeting the applicant and the Administrator shall review the applicant's proposal, the provisions of this Article and other applicable ordinances of the Village, the relationship of the proposed facility with the Village's comprehensive plan, the reasons for the requested variance, and the necessary application forms and other submittal documents.

(c) *Review process; hearing.* The Administrator shall review the variance application for completeness and technical accuracy and shall schedule a hearing on the application before the Commission. If the Administrator in consultation with the chair of the Commission determines that expert assistance will be necessary or beneficial for the consideration of the variance application, the Administrator may retain expert assistance at the expense of the applicant, as provided in Section 18-206(f). The hearing before the Commission shall be set at the earliest convenient opportunity, taking into account the review period provided in Section 18-206(f), notice requirements and any need for expert assistance to allow a full and fair consideration of the variance application by the Commission.

(d) *Conditions for variance—general.* The Commission may deny any application for variance that is based on conditions which are the result of the action of the applicant or the owner of the land. Where the Commission finds that the strict application of the requirements contained in this Article would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land for a Wireless Telecommunications Facility that is necessary for the benefit of the community, a variance may be granted provided that all of the following conditions are met:

- (1) the variance will not be contrary to the public interest;
- (2) the variance will not adversely affect adjacent property owners or residents; and
- (3) the variance is necessary to avoid unreasonable discrimination among providers of wireless telecommunications services or to avoid the effective prohibition of wireless telecommunications services contrary to the Telecommunications Act.

(e) *Technical conditions for variance.* If an applicant seeks a variance on the ground that a strict application of the requirements contained in this Article would have the effect of unreasonable discrimination among providers, an effectual prohibition of service, or any other improper action under the Telecommunications Act, the applicant shall provide full, adequate and complete documentation and evidence sufficient to support applicant's application for variance. In particular, and without limitation, applicant shall provide complete documentation of the following, and at hearing before the Commission or, on appeal, before the Governing Body, shall offer witnesses sufficient to establish the following:

- (1) If applicant claims that the variance is necessary to avoid unreasonable discrimination among providers of wireless telecommunications services, applicant must provide complete and adequate documentation, evidence and testimony establishing that denial of the requested variance would result in applicant being treated differently than other providers, that such difference in treatment is unreasonable, and that the requested variance will avoid the unreasonable discrimination.

- (2) If applicant claims that the variance is necessary to avoid an effective prohibition of service, applicant must provide complete and adequate documentation, evidence and testimony establishing that denial of the requested variance will result in a prohibition of service, that applicant has investigated and considered all reasonable alternatives to the requested variance, and that the requested variance constitutes the least intrusive means of providing the required services.

It is the sole responsibility of the applicant to provide ALL required documentation, evidence and testimony at hearing to establish the need for a variance. In the event that applicant withholds information at proceedings before the Commission and/or the Governing Body, and then seeks to introduce such evidence or testimony on appeal to the judiciary, applicant's failure to provide the required material at hearing before the Commission and the Governing Body shall be deemed a defense against applicant's appeal.

(f) *Conditions for variance.* If the Commission determines that a variance should be granted from any standard or requirement of this Article, the Commission may impose any condition deemed to be in the best interests of the Village, taking into account the following:

- (1) Accessibility to property and proposed structures thereon, not necessarily limited to the proposed Wireless Telecommunications Facility, with particular reference to automobile and pedestrian safety, traffic control, streets and roads, and emergency access in case of fire, flood or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to refuse and service areas;
- (3) Locations on site for water, septic, sewer and liquid waste facilities;
- (4) The economic, noise, glare, odor, visual or aesthetic effects of any proposed use, including the Wireless Telecommunications Facility, on adjoining properties;
- (5) On-site drainage and storm water runoff;
- (6) General compatibility with adjacent properties;
- (7) The overall health and safety of the community
- (8) Protection of historical, archaeological or scenic resources, including but not limited to buildings or properties listed on any federal, state or local register or inventory of historic places and the viewscapes surrounding any such building or property; and
- (9) The goals and objectives of the Comprehensive Plan.

(g) *Public notification.* The hearing before the Commission at which an application for variance will be heard must receive legal notice. In addition to legal notice, the Administrator will provide the applicant with a notification sign, which contains information pertinent to the variance application. The sign must be displayed by the applicant in a location visible and prominent to the general public on the property for which the variance is requested for at least fifteen (15) days prior to the date of the hearing.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-211. Fees; Reimbursement of Village Costs.

- (a) *Application fee.* The fee for Village consideration of any application for approval of a

telecommunications facility permit for a Wireless Telecommunications Facility shall be in an amount set by resolution of the Governing Body. The fee shall accompany the application and is non-refundable. No application fee is required if the proposed Wireless Telecommunications Facility is for a collocated facility on an existing structure on property owned by the Village under a lease agreement with the Village, and does not require a variance.

(b) *Variance application fee.* Any application for a variance related to the construction, erection, modification or removal of a Wireless Telecommunications Facility shall be accompanied by an application fee in an amount determined by resolution of the Governing Body, which shall be in addition to any fee required under Subsection 18-211(a) of this Section. The fee shall accompany the application and is non-refundable.

(c) *Retention of expert assistance and reimbursement of Village costs.*

- (1) The Village may retain any engineer, attorney, consultant or other person or firm deemed necessary to assist the Village in reviewing and evaluating any application related to a Wireless Telecommunications Facility, including but not limited to the location, construction, modification, recertification or removal of such facilities. The Village shall be entitled to recover its costs for expert assistance from the applicant as provided in this Subsection 18-211(c).
- (2) An applicant shall deposit with the Village funds sufficient to reimburse the Village for all reasonable costs of engineer, attorney, consultant or other expert evaluation and consultation to the Village in connection with any application under this Article. The applicant, before or at the time of the pre-application conference described in Section 18-206(b) or Section 18-210(b), shall place an initial deposit with the Village in an amount determined by resolution of the Governing Body, unless the Administrator determines that a lesser or greater amount is necessary, in his or her sole discretion, based on the scope or complexity of the proposed project. The deposit and any other funds required under this Subsection shall be retained by the Village in a separate escrow account, from which the Village may draw to pay the reasonable costs invoiced to the Village by experts retained to assist the Village in evaluating the application. If at any time during the application and review process the balance of the escrow account falls below a minimum amount determined by resolution of the Governing Body, the applicant upon notification by the Village shall provide an additional deposit sufficient to raise the balance to a sufficient amount as determined by resolution of the Governing Body. If the amount held in escrow at the conclusion of the application and review process exceeds the Village's costs incurred for expert assistance, the remaining balance shall be promptly refunded to the applicant.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-212. Appeals.

(a) *Right of appeal.* Any person aggrieved by a decision of the Commission on any application under this Article may appeal to the Governing Body.

(b) *Appeal procedure.* Any appeal from a decision of the Commission under this Article shall be made by filing a notice of appeal in the office of the Village Clerk no later than twenty (20) days following the decision of the Commission from which the appeal is taken, along with the appropriate filing fee. The notice of appeal shall set forth the grounds on which the appeal is taken, including a specific statement describing wherein it is claimed there was an error of fact or law, an abuse of discretion by the Commission, or wherein the decision of the Commission was not supported by substantial evidence. If the twentieth day following the decision which is the subject of the appeal falls on a Saturday, Sunday or legal holiday, the appeal shall be deemed timely if filed on the next regular business day thereafter.

(c) *Hearing on appeal.* The decision of an appeal shall be made by the Governing Body following a public hearing. The hearing at which an appeal will be heard must receive legal notice. At hearing, the Governing Body will consider the record made before the Commission, will hear additional testimony of the parties and other interested persons, and may in the discretion of the Mayor or other presiding officer accept into evidence additional relevant materials not included in the record made before the Commission. The hearing shall be held within sixty (60) days following the date the notice of appeal was filed in the office of the Village Clerk.

(d) *Decision.* The final decision of the Governing Body shall be made no later than forty (40) days following the hearing on the appeal. A majority vote of all members of the Governing Body shall be required to affirm, reverse or modify the decision made by the Commission. The final written decision of the Governing Body shall include findings of fact and conclusions of law setting forth the reasons for the decision, and shall be served promptly upon the applicant and other parties to the proceedings.

(e) *Stay of proceedings.* An appeal duly brought under this Section shall stay all proceedings in the action unless the Administrator or the Commission determines that a stay will cause imminent peril to life or property. Upon such determination, the proceedings shall not be stayed except by order of a court of competent jurisdiction.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-213. Adherence to Federal, State and Other Laws and Regulations.

In addition to meeting the requirements of this Article, all Wireless Telecommunications Facilities in the Village shall be constructed and operated in full compliance with all applicable federal, state and local laws and regulations, including but not limited to the Telecommunications Act, applicable FAA and FCC rules and regulations, New Mexico statutes including but not limited to Section 5-12-1, NMSA 1978, and all provisions of the Code of Ordinances of the Village. Failure to comply with any such federal, state or local law or regulation shall be grounds for immediate termination of any permit granted by the Village and a requirement that the owner remove the non-complying Wireless Telecommunications Facility as provided in Section 18-209.

History: Ord. No. 16-02, adopted 2-9-16.

Section 18-214. Penalty for Violation.

(a) *General penalty for violation.* Any violation of this Article shall be punishable in accordance with Section 1-6. Each day that an antenna, tower, Wireless Telecommunications Facility or other structure remains in violation of this Article after notification of such violation to the owner, operator, builder or other party responsible for the antenna, tower, Wireless Telecommunications Facility or other structure, or to the owner of the real property upon which such facility is located, shall be deemed a separate offense subject to the penalties provided in Section 1-6.

(b) *Other enforcement action.* Nothing contained in the preceding Subsection 18-214(a) nor in any other provision of this Article shall be deemed to limit or prevent the Village from taking any appropriate lawful action that the Village finds necessary or advisable, in the judgment of its officers or its Governing Body, to enforce any provision or remedy any violation of this Article.

History: Ord. No. 16-02, adopted 2-9-16.