

CODE OF ORDINANCES
VILLAGE OF
TIJERAS, NEW MEXICO

Published in 2022 by Order of the Village Council

municode
POWERED BY CIVICPLUS[®]

info@municode.com | 800.262.2633 | www.municode.com

P.O. Box 2235 Tallahassee, FL 32316

OFFICIALS
of the
VILLAGE OF
TIJERAS, NEW MEXICO
AT THE TIME OF THIS CODIFICATION

Jake Bruton
Mayor

Matt Armenta
Yvette Garcia
Jonathan Ortiz
Maxine Wilson
Village Council

William Zarr of Robles, Rael & Anaya, P.C.
Village Attorney

Nicolas Kennedy
Village Clerk

PREFACE

This Code constitutes a codification of the general and permanent ordinances of the Village of Tijeras, New Mexico.

Source materials used in the preparation of the Code were the ordinances subsequently adopted by the village council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately

to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CODE INDEX	CDi:1

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Alyce A. Whitson, Senior Code Attorney, and Ashlea Hernandez, Editor, of Municode, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to the Honorable Jake Bruton, Mayor; Hallie Brown, former Village Clerk; Nicolas Kennedy, Village Clerk; and the other members of the village staff for their cooperation and assistance during the progress of the work on this

publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the Village of Tijeras readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the village's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municode and the Village of Tijeras, New Mexico. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municode and the Village of Tijeras, New Mexico.

© Copyrighted material.

Municode and the Village of Tijeras, New Mexico. 2022.

TABLE OF CONTENTS

	Page
Officials of the Village at the Time of this Codification	iii
Current Officials (Reserved)	v
Preface	vii
Adopting Ordinance (Reserved)	

CODE OF ORDINANCES

Chapter	
1. General Provisions	CD1:1
2. Administration	CD2:1
Art. I. In General	CD2:3
Art. II. Village Council	CD2:3
Div. 1. Generally	CD2:3
Div. 2. Mayor	CD2:4
Div. 3. Meetings	CD2:4
Div. 4. Vacancies	CD2:5
Art. III. Boards, Committees and Commissions	CD2:5
Div. 1. Generally	CD2:5
Div. 2. Planning and Zoning Commission	CD2:5
Art. IV. Elections	CD2:7
Div. 1. Generally	CD2:7
Div. 2. Local Election	CD2:7
Div. 3. Mayor and Village Council	CD2:8
Art. V. Officers and Employees	CD2:8
Div. 1. Generally	CD2:8
Div. 2. Village Clerk	CD2:8
Art. VI. Policies and Procedures	CD2:8
Div. 1. Generally	CD2:8
Div. 2. Quasi-Judicial Hearings	CD2:8
3. Reserved	CD3:1
4. Animals	CD4:1
Art. I. In General	CD4:3
Art. II. Administration	CD4:9
Div. 1. Generally	CD4:9
Div. 2. Permits	CD4:11

TIJERAS CODE

Chapter	Page
Div. 3. License	CD4:15
Art. III. Care and Control	CD4:17
Art. IV. Wild and Hybrid Animals	CD4:26
Art. V. Animal Care Services Impoundment Procedures	CD4:26
Art. VI. Wild Animals; Canine Hybrids	CD4:29
5. Reserved	CD5:1
6. Buildings and Building Regulations	CD6:1
Art. I. In General	CD6:3
Art. II. Administration	CD6:3
Div. 1. Generally	CD6:3
Div. 2. Permit	CD6:3
Art. III. Building Code and Standards	CD6:3
Div. 1. Generally	CD6:3
Div. 2. State Building Code	CD6:3
Art. IV. Fair Housing	CD6:4
7. Reserved	CD7:1
8. Businesses and Business Regulations	CD8:1
Art. I. In General	CD8:3
Art. II. Business Registration Fee	CD8:3
9. Reserved	CD9:1
10. Environment (Reserved)	CD10:1
11. Reserved	CD11:1
12. Fire Prevention and Protection	CD12:1
Art. I. In General	CD12:3
Art. II. Fire Code and Standards	CD12:3
Art. III. Fireworks	CD12:3
Div. 1. Generally	CD12:3
Div. 2. Sale, Use, Possession	CD12:3
Div. 3. Use During Severe Drought	CD12:10
13. Reserved	CD13:1
14. Floods	CD14:1
Art. I. In General	CD14:3
Art. II. Flood Hazard Mitigation	CD14:3
Div. 1. Generally	CD14:3
Div. 2. Administration	CD14:10
Div. 3. Standards for Flood Hazard Reduction	CD14:14
15. Reserved	CD15:1

TABLE OF CONTENTS—Cont'd.

Chapter	Page
16. Streets, Roads, Sidewalks and Other Public Places	CD16:1
Art. I. In General	CD16:3
Art. II. Streets and Roads	CD16:3
Div. 1. Generally	CD16:3
Div. 2. Naming	CD16:3
17. Reserved	CD17:1
18. Subdivisions	CD18:1
Art. I. In General	CD18:3
Art. II. Administration	CD18:7
Div. 1. Generally	CD18:7
Div. 2. Fees and Charges	CD18:7
Div. 3. Modifications and Exceptions	CD18:8
Div. 4. Appeals	CD18:8
Art. III. Plats	CD18:9
Div. 1. Generally	CD18:9
Div. 2. Pre-Application	CD18:10
Div. 3. Preliminary Plat	CD18:11
Div. 4. Final Plat	CD18:14
Div. 5. Summary Plat Procedure	CD18:17
Div. 6. Vacation of Plat	CD18:18
Art. IV. Required Improvements	CD18:19
Art. V. Design Standards	CD18:20
19. Reserved	CD19:1
20. Taxation and Finance	CD20:1
Art. I. In General	CD20:3
Art. II. Alcoholic Beverages	CD20:3
Div. 1. Generally	CD20:3
Div. 2. License Tax	CD20:4
Art. III. Gross Receipts Tax	CD20:5
21. Reserved	CD21:1
22. Traffic and Vehicles	CD22:1
Art. I. In General	CD22:3
Art. II. Uniform Traffic Ordinance	CD22:3
Div. 1. Generally	CD22:3
Div. 2. Penalty Assessment	CD22:3
Div. 3. Penalty Assessment Misdemeanors	CD22:5
Div. 4. Payment of Assessments	CD22:6
23. Reserved	CD23:1

TIJERAS CODE

Chapter	Page
24. Utilities.....	CD24:1
Art. I. In General	CD24:5
Art. II. Administration.....	CD24:5
Div. 1. Generally	CD24:5
Div. 2. Identity Theft Program.....	CD24:5
Art. III. Water Service	CD24:10
Div. 1. Generally	CD24:10
Div. 2. Administration	CD24:12
Div. 3. Billing, Fees, Rates and Charges	CD24:12
Div. 4. Connections.....	CD24:14
Div. 5. Extension of Service.....	CD24:16
Div. 6. Conservation	CD24:17
Div. 7. Use Regulations	CD24:18
Art. IV. Wastewater Service	CD24:19
Div. 1. Generally	CD24:19
Div. 2. Administration	CD24:23
Div. 3. Billing, Fees, Rates and Charges	CD24:28
Div. 4. Standards.....	CD24:32
Div. 5. Sewer Use Regulations.....	CD24:34
25. Reserved.....	CD25:1
26. Zoning	CD26:1
Art. I. In General	CD26:7
Art. II. Administration.....	CD26:14
Div. 1. Generally	CD26:14
Div. 2. Process, Planning and Review	CD26:15
Div. 3. Zone Change	CD26:16
Div. 4. Plan Requirements	CD26:18
Div. 5. Variance.....	CD26:20
Div. 6. Conditional Use	CD26:21
Div. 7. Appeals	CD26:22
Div. 8. Annexation	CD26:23
Div. 9. Fees and Charges	CD26:23
Art. III. Nonconformities.....	CD26:24
Div. 1. Generally	CD26:24
Div. 2. Nonconforming Uses	CD26:24
Art. IV. Zones and Regulations	CD26:25
Div. 1. Generally	CD26:25
Div. 2. Residential Zone 1 (R-1)	CD26:25
Div. 3. Residential Zone 2 (R-2)	CD26:27
Div. 4. Commercial, Industrial, and Government/Insti- tutional Zones.....	CD26:29

TABLE OF CONTENTS—Cont'd.

Chapter	Page
Div. 5. Commercial Business Zone 1 (CB-1)	CD26:30
Div. 6. Large Commercial Zone 2 (CB-2)	CD26:32
Div. 7. Industrial/Manufacturing/Service Zone 1 (I/M-3)	CD26:34
Div. 8. Government/Institutional Zone (G/I)	CD26:38
Div. 9. Special Use Zone (S-U)	CD26:38
Art. V. Supplementary District Regulations	CD26:41
Div. 1. Generally	CD26:41
Div. 2. Height	CD26:43
Div. 3. Signs	CD26:43
Div. 4. Lighting	CD26:44
Div. 5. Roads and Roadways	CD26:45
Div. 6. Off-Street Parking and Loading	CD26:45
Subdiv. I. In General	CD26:45
Subdiv. II. Off-Street Parking	CD26:46
Subdiv. III. Off-Street Loading Requirements	CD26:47
Div. 7. Home Business	CD26:47
 Appendix	
A. Personnel Policies and Procedures	CDA:1
B. Community Block Grants	CDB:1
Art. I. Citizen Participation Plan	CDB:3
Art. II. Relocation Policy	CDB:5
Art. III. Procurement Policy	CDB:8
C. Water Project Fund Loan/Grant Agreement	CDC:1
D. Loan Agreement with the New Mexico Environment Department	CDD:1
Code Comparative Table—Legislation	CCT:1
State Law Reference Table	SLT:1
Code Index	CDi:1

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

- Sec. 1-1. Designation and citation of Code.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Catchlines of sections.
- Sec. 1-4. References to chapters, articles, divisions or sections.
- Sec. 1-5. Provisions considered continuation of existing ordinances.
- Sec. 1-6. Ordinances not affected by Code.
- Sec. 1-7. Acts, penalties and rights not affected by Code.
- Sec. 1-8. Effect of repeal or amendment of ordinances.
- Sec. 1-9. History notes.
- Sec. 1-10. References and editor's notes.
- Sec. 1-11. Amendments to Code.
- Sec. 1-12. Supplementation of Code.
- Sec. 1-13. Severability of parts of Code.
- Sec. 1-14. General penalty for violation of Code; separate offenses.

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Village of Tijeras, New Mexico" and may be so cited. Such Code may also be cited as the "Tijeras Code."

State law reference—Authority to adopt code of ordinances, NMSA 1978, § 3-17-5.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code, the following definitions and rules of construction shall be observed, unless the context clearly indicates otherwise:

Board, committee, commission. The title of any board, committee, or commission shall be interpreted as though the words "of the Village of Tijeras, New Mexico" were added.

Code. The term "Code" refers to the Code of Ordinances, Village of Tijeras, New Mexico, as established and designated in section 1-1.

Computation of time. In computing a period of time allowed or prescribed by ordinance, the following applies:

- (1) If the period is expressed in days, the first day of the period is excluded and the last day is included;
- (2) If the period is expressed in weeks, the period ends on the day that is the same day of the concluding week as the day of the week on which an event determinative of the computation occurred;
- (3) If the period is expressed in months, the period ends on the day of the concluding month that is numbered the same as the day of the month on which an event determinative of the computation occurred, unless the concluding month has no such day, in which case the period ends on the last day of the concluding month;
- (4) If the period is expressed in years, the period ends on the day of the concluding month of the concluding year that is numbered the same as the day of the month of the year on which an event determinative of the computation occurred, unless the concluding month has no such day, in which case the period ends on the last day of the concluding month of the concluding year;
- (5) If the period is less than 11 days, a Saturday, Sunday or legal holiday is excluded from the computation;
- (6) If the last day of the period is a Saturday, Sunday or legal holiday, the period ends on the next day that is not a Saturday, Sunday or legal holiday;
- (7) A day begins immediately after midnight and ends at the next midnight.

State law reference—Similar provisions, NMSA 1978, § 12-2A-7.

Councilor. The term "councilor" means a member of the village council other than the mayor.

County. The term "county" means the County of Bernalillo, New Mexico.

Delegation of authority. Whenever a provision appears authorizing or requiring a particular officer or employee of the village to do some act, it shall be construed to authorize the officer or employee to delegate, designate and authorize subordinates to do the act, unless the terms of the provision or section specify otherwise.

Gender. A word importing only one gender shall extend and be applied to all genders and to firms, partnerships and corporations as well as to males.

State law reference—Gender, NMSA 1978, § 12-2A-5.

Governing body. The term "governing body" of the mayor-council form of government is the council whose members are the mayor and the councilors.

State law reference—Governing body, NMSA 1978, § 3-12-2(D).

Keeper and proprietor. The terms "keeper" and "proprietor" mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

May. The term "may" is permissive and not mandatory.

State law reference—Similar provisions, NMSA 1978, § 12-2A-4.

Mayor. The term "mayor" means and refers to the mayor of the Village of Tijeras, New Mexico.

Month. The term "month" means a calendar month.

Must. The term "must" is always mandatory and not merely permissive.

State law reference—Similar provisions, NMSA 1978, § 12-2A-4.

NMSA. The abbreviation "NMSA" means the latest edition or supplement of the official statutes of the State of New Mexico and any amendments adopted by the state legislature.

State law reference—Similar provisions, NMSA 1978, § 12-2A-17.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; however, technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

State law reference—Similar provisions, NMSA 1978, § 12-2A-2.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

State law reference—Similar provisions, NMSA 1978, § 12-2A-5.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases, the terms "swear" and "sworn" shall include the terms "affirm" and "affirmed."

State law reference—Similar provisions, NMSA 1978, § 12-2A-3.

Officer, employee, department, etc. The title of any officer, employee, department, etc., shall be interpreted as though the words "of the Village of Tijeras, New Mexico" were added.

Or; and. The term "or" may be read as "and," and the term "and" may be read as "or," if the sense requires it.

Owner. The term "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The term "person" means and includes individual natural persons, partnerships, joint adventures, societies, associations, clubs, trustees, trusts or corporations; and any officers, agents, employees or factors or any kind of personal representatives of any thereof, in any capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law.

State law reference—Similar provisions, NMSA 1978, § 12-2A-3.

Personal property. The term "personal property" means and includes every species of property except real property.

State law reference—Similar provisions, NMSA 1978, § 12-2A-3.

Public place. The term "public place" means the city hall, the post office or any park, cemetery, schoolyard or open space adjacent thereto, and all waterways.

Real property. The term "real property" means and includes lands, tenements and hereditaments.

Shall and will. The terms "shall" and "will" are always mandatory and not merely permissive.

State law reference—Similar provisions, NMSA 1978, § 12-2A-4.

Signature or subscription. The terms "signature" or "subscription" means and includes a mark, when the person making a mark or who is proposed to make a mark, cannot write.

State. The term "state" means the State of New Mexico.

Street. The term "street" means and includes streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the village.

Tenant, occupant. The term "tenant" or "occupant," applied to a building or land, means and includes any person holding a written or oral lease, or who occupies the whole or a part of such buildings or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

State law reference—Similar provisions, NMSA 1978, § 12-2A-5.

Village. The term "village" means the Village of Tijeras, New Mexico, and shall extend to and include its several officers, agents and employees.

Village clerk. The term "village clerk" means and refers to the village clerk of the Village of Tijeras, New Mexico.

Village council and council. The terms "village council" and "council" mean the village council of the Village of Tijeras, New Mexico.

Written and in writing. The terms "written" and "in writing" mean and include any representation of words, letters or figures, whether by printing or otherwise.

State law reference—Similar provisions, NMSA 1978, § 12-2A-3.

Year. The term "year" means a calendar year.

State law reference—Construction of statutes, NMSA 1978, § 12-2A-51 et seq.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, or any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

State law reference—Similar provisions regarding statutes, NMSA 1978, § 12-21-13.

Sec. 1-4. References to chapters, articles, divisions or sections.

All references in this Code to chapters, articles, divisions or sections are to the chapters, articles, divisions and sections of this Code unless otherwise specified.

Sec. 1-5. Provisions considered continuation of existing ordinances.

The provisions appearing in this and the following chapters and sections, so far as they are the same as the ordinance from which they were derived, shall be considered as a continuation thereof and not as new enactments.

State law reference—Similar provisions, NMSA 1978, § 12-2A-14.

Sec. 1-6. Ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

- (1) Adopting the budget or making appropriations;
- (2) Authorizing or otherwise relating to any contract or obligation assumed by the village;
- (3) Promising or guaranteeing the payment of money for the village;
- (4) Authorizing the issuance of bonds or any evidence of indebtedness;
- (5) Granting a franchise or right, or any ordinance relating to franchises;
- (6) Contracting, extending or describing the boundaries of the village;
- (7) Imposing taxes which have not been codified in this Code;
- (8) Relating to personnel or the salaries of village officers and employees;
- (9) Providing for local improvements or levying special assessments for local improvements;
- (10) Regulating subdivisions;
- (11) Accepting or dedicating any plat or subdivision;
- (12) Dedicating, naming, establishing, locating, relocating, opening, vacating, closing, paving, widening or establishing grades for any street, alley or sidewalk;
- (13) Regarding zoning or land use regulations or rezonings;
- (14) Regarding personnel matters or pension, retirement or other benefits for officers and employees;
- (15) Relating to a traffic schedule, or any ordinance regulating stopping, standing or parking;

- (16) Regarding the Community Development Block Grant program and regulations;
- (17) Which is temporary although general in effect;
- (18) Which is special although permanent in effect; or
- (19) Whose purpose has not been accomplished;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out in this Code.

Sec. 1-7. Acts, penalties and rights not affected by Code.

Nothing in this Code or in the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or occurring before the effective date of this Code.

Sec. 1-8. Effect of repeal or amendment of ordinances.

(a) The repeal or amendment of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed or amended took effect, or the obligation of any contract entered into under the prior ordinance.

(b) The repeal or amendment of an ordinance shall not affect any punishment or penalty incurred before the repeal or amendment took effect, or any suit, prosecution or proceeding pending at the time of the repeal or amendment, for an offense committed or cause of action arising under the repealed or amended ordinance.

State law reference—Similar provisions, NMSA 1978, § 12-2A-15.

Sec. 1-9. History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

Sec. 1-10. References and editor's notes.

References and editor's notes following certain sections of this Code are inserted as an aid and guide to the reader and are not controlling or meant to have any legal effect.

Sec. 1-11. Amendments to Code.

(a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the village council to make the addition or amendment a part of this Code, shall be deemed to be incorporated in this Code, so that reference to this Code shall be understood and intended to include such additions and amendments.

(b) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. When subsequent ordinances repeal any chapter, article, division, section or subsection, or any portion thereof, such repealed portions may be excluded from this Code by omission from reprinted pages.

(c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section ____ of the Code of Ordinances, Village of Tijeras, New Mexico, is hereby amended to read as follows:...." The new provisions shall then be set out in full as desired.

(d) If a new section not heretofore existing in this Code is to be added, the following language may be used: "That the Code of Ordinances, Village of Tijeras, New Mexico, is hereby amended by adding a section to be numbered ____, which section reads as follows:...." The new section may then be set out in full as desired.

(e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-12. Supplementation of Code.

(a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the village clerk. A supplement to this Code shall include all substantive permanent and general parts of ordinances passed by the village council or adopted by initiative and referendum during the period covered by the supplement, and all changes made thereby in this Code, and shall also include all amendments to the personnel policies and procedures printed in appendix A to this Code during the period. The pages of a supplement shall be so numbered that they will fit properly into this Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, this Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of this Code which have been repealed shall be excluded from this Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions.
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of this Code printed in the supplement, and make changes in catchlines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in this Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division" or "this section," as the case may be, or to "sections through." The inserted section numbers will indicate the sections of this Code which embody the substantive sections of the ordinance incorporated into this Code.
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into this Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in this Code.

Sec. 1-13. Severability of parts of Code.

It is hereby declared to be the intention of the village council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and, if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

State law reference—Severability of statutes, NMSA 1978, § 12-2A-9.

Sec. 1-14. General penalty for violation of Code; separate offenses.

(a) Whenever in this Code, or in any ordinance of the village, any act or omission is prohibited or is made or declared to be unlawful or a misdemeanor, or whenever in said Code or ordinance the doing of any act or the failure to do any act is declared to be unlawful or a offense or is prohibited, and no specific penalty is provided therefor, and state law does not provide otherwise, or for a greater penalty, the violation of any such provision of this Code or any ordinance shall be punishable:

- (1) By a fine of up to \$500.00 or a term of imprisonment of up to 90 days, or both a fine and term of imprisonment;
- (2) Except for a violation of an ordinance prohibiting driving a motor vehicle while under the influence of intoxicating liquor or drugs, by a fine of not more than \$1,000.00 or imprisonment for not more than 364 days, or both; and
- (3) Except for violations of an industrial user wastewater pretreatment ordinance as required by the United States environmental protection agency, by a fine of not more than \$1,000.00 a day for each violation.

(b) Unless specifically provided otherwise, or the context thereof so dictates, each day any violation of any provision of this Code or any ordinance shall continue shall constitute a separate offense.

State law reference—Penalties, municipal authority to enforce ordinances by fines or imprisonment, NMSA 1978, § 3-17-1.

Chapter 2

ADMINISTRATION

Article I. In General

Secs. 2-1—2-18. Reserved.

Article II. Village Council

Division 1. Generally

Sec. 2-19. Legislative branch.
Sec. 2-20. Compensation.
Secs. 2-21—2-43. Reserved.

Division 2. Mayor

Sec. 2-44. Duties.
Sec. 2-45. Authority to appoint officers.
Sec. 2-46. Duties during formal occasions or receptions.
Secs. 2-47—2-65. Reserved.

Division 3. Meetings

Sec. 2-66. Regular meeting days established by resolution.
Sec. 2-67. Quorum requirements.
Secs. 2-68—2-92. Reserved.

Division 4. Vacancies

Sec. 2-93. Temporary qualified elector for mayoral or council vacancies.
Secs. 2-94—2-114. Reserved.

Article III. Boards, Committees and Commissions

Division 1. Generally

Secs. 2-115—2-141. Reserved.

Division 2. Planning and Zoning Commission

Sec. 2-142. Purpose.
Sec. 2-143. Membership.
Sec. 2-144. Terms.
Sec. 2-145. Chair and vice-chair.
Sec. 2-146. Conduct of business.
Sec. 2-147. Meetings.
Sec. 2-148. Records.
Sec. 2-149. Powers and duties; delegation of powers.
Secs. 2-150—2-185. Reserved.

TIJERAS CODE

Article IV. Elections

Division 1. Generally

Secs. 2-186—2-208. Reserved.

Division 2. Local Election

Sec. 2-209. Municipal officers to be elected at the regular local election.
Secs. 2-210—2-226. Reserved.

Division 3. Mayor and Village Council

Sec. 2-227. Terms.
Secs. 2-228—2-267. Reserved.

Article V. Officers and Employees

Division 1. Generally

Secs. 2-268—2-293. Reserved.

Division 2. Village Clerk

Sec. 2-294. Villager clerk as chief administrative officer.

Article VI. Policies and Procedures

Division 1. Generally

Secs. 2-295—2-345. Reserved.

Division 2. Quasi-Judicial Hearings

Sec. 2-346. Title.
Sec. 2-347. Authority and jurisdiction.
Sec. 2-348. Purpose.
Sec. 2-349. Interpretation.
Sec. 2-350. Definitions.
Sec. 2-351. Testimony under oath.
Sec. 2-352. Deliberations.
Sec. 2-353. Written decision.
Sec. 2-354. Records of proceedings.
Sec. 2-355. Appeal.

ARTICLE I. IN GENERAL

Secs. 2-1—2-18. Reserved.

ARTICLE II. VILLAGE COUNCIL***DIVISION 1. GENERALLY****Sec. 2-19. Legislative branch.**

The village council shall be the legislative branch of the village government and shall perform such duties and have such powers as may be authorized by statute.

(Ord. No. 28, § II, 7-12-1982)

Sec. 2-20. Compensation.

(a) The compensation of the governing body of the village shall be as follows:

- (1) The compensation of the mayor shall be \$21,300.00 annually.
- (2) The compensation of the councilors shall be \$9,100.00 annually.
- (3) The position of mayor pro tem is considered a regular councilor and will be paid as such.
- (4) Compensation of all elected officials shall be paid as a weekly salary, with $\frac{1}{52}$ of their annual salary being paid each week.
- (5) Elected officials compensation will be pro-rated through the end of their term or the date of their resignation or, under any other circumstances, their last working day.
- (6) Compensated amounts will be reviewed annually during the annual budgeting process. When the governing body determines that changes are indicated, they must be approved as an ordinance prior to the election they are to take effect at.

(b) Those members of the governing body elected to office shall receive compensation as established in this article upon taking office, or upon the commencement of their next term if they are already in office.

(c) Nothing in this article shall be construed to prohibit or preclude the payment of per diem and mileage or actual expenses of elected or appointed officials traveling on official business of the village and approved by the governing body.

(Ord. No. 28, § V, 7-12-1982; Ord. No. 151, §§ 1—3, 2-27-2012)

Secs. 2-21—2-43. Reserved.

***Editor's note**—The form of government in the village is the mayor-council form of government under NMSA 1978, § 3-11-1 et seq.

DIVISION 2. MAYOR*

Sec. 2-44. Duties.

The mayor shall be the chief executive officer of the village, shall preside over the meetings of the council, and shall perform such duties as may be required of him or her by statute or ordinance. He or she shall have supervision over all of the executive officers and employees of the village and shall have the power and authority to inspect all books and records pertaining to village affairs and kept by any officer or employee of the village at any reasonable time.

(Ord. No. 28, § II, 7-12-1982)

Sec. 2-45. Authority to appoint officers.

The mayor shall appoint, by and with the advice and consent of the village council, all officers of the village whose election or appointment is not otherwise provided for. Any vacancies occurring in an appointive office shall be filled in the same manner.

(Ord. No. 28, § II, 7-12-1982)

Sec. 2-46. Duties during formal occasions or receptions.

(a) The mayor shall act for and on behalf of the village on formal occasions or receptions.

(b) The mayor shall select a village officer to act in the mayor's absence or inability to attend, but if mayor is unable or unwilling to select an officer, the council may select.

(Ord. No. 28, § II, 7-12-1982)

Secs. 2-47—2-65. Reserved.

DIVISION 3. MEETINGS†

Sec. 2-66. Regular meeting days established by resolution.

(a) The regular meeting of the governing body shall be held on the day of each month established annually by resolution.

(b) Special meetings of the governing body may be called by the mayor or any three councilors, provided that each member of the governing body be notified at least two hours before the time set for the meeting.

(Ord. No. 28, § III, 7-12-1982)

*State law reference—Mayor, NMSA 1978, § 3-11-1 et seq.

†State law reference—Open meetings act, NMSA 1978, § 10-15-1 et seq.

Sec. 2-67. Quorum requirements.

A majority of the elected members of the governing body shall constitute a quorum thereof, but no ordinance or measure for the expenditure of money shall be passed except upon the favorable vote of a majority of the village council as provided by statute.

(Ord. No. 28, § IV, 7-12-1982)

Secs. 2-68—2-92. Reserved.

DIVISION 4. VACANCIES

Sec. 2-93. Temporary qualified elector for mayoral or council vacancies.

(a) In case of the death, disability, resignation or change of residence, from the municipality, of the mayor, the village council shall appoint by majority vote a qualified elector to fill the vacancy until the next regular municipal election, at which time a qualified elector shall be elected.

(b) Any vacancy on the village council shall be filled by appointment of a qualified elector by the mayor, with the advice and consent of the council. Any qualified elector appointed to fill a vacancy on the village council shall serve until the next regular local election, at which time any qualified elector shall be elected to fill the remaining unexpired term, if any.

(Ord. No. 28, § VI, 7-12-1982)

State law reference—Local Election Act, NMSA 1978, § 1-22-1 et seq.

Secs. 2-94—2-114. Reserved.

ARTICLE III. BOARDS, COMMITTEES AND COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-115—2-141. Reserved.

DIVISION 2. PLANNING AND ZONING COMMISSION

Sec. 2-142. Purpose.

The purpose of this division is to define a municipal organization of appointed officials in order to promote and carry out a continuing process of comprehensive planning and zoning within the jurisdiction of the village as authorized by NMSA 1978, §§ 3-19-1 through 3-19-4.

(Ord No. 59, § 1, 6-8-1992)

Sec. 2-143. Membership.

The planning and zoning commission shall consist of not less than five members who shall be appointed by the mayor with the consent of the village council.

(Ord No. 59, § 2(A), 6-8-1992)

Sec. 2-144. Terms.

Members of the planning and zoning commission shall serve two-year terms which may be renewed for an indefinite number of terms. In order to maintain a staggering of terms to ensure continuity within the planning and zoning commission, half or approximately half of the membership terms shall expire every year in July. Members may be appointed at any time to fill an unexpired term. After a public hearing, members may be removed and replaced for cause stated in writing and made a part of public record.

(Ord No. 59, § 2(B), 6-8-1992)

Sec. 2-145. Chair and vice-chair.

The planning and zoning commission shall elect from its members a chair and vice-chair for a one-year term. The chair shall preside over all meetings of the planning and zoning commission, and the vice-chair shall perform the duties of the chair in the absence or disability of the chair.

(Ord No. 59, § 4(A), 6-8-1992)

Sec. 2-146. Conduct of business.

The planning and zoning commission shall adopt and publish such rules, regulations and procedures for the conduct of business as deemed appropriate to its members. A quorum shall be a majority of the membership of the planning and zoning commission.

(Ord No. 59, § 4(B), 6-8-1992)

Sec. 2-147. Meetings.

The planning and zoning commission shall hold regularly scheduled meetings at least once a month, and such meetings will be open to the public. The planning and zoning commission may hold special meetings as may be called by the chair or vice-chair consistent with the provisions of the Open Meetings Act.

(Ord No. 59, § 4(C), 6-8-1992)

Sec. 2-148. Records.

A public record shall be kept of all actions and considerations undertaken by the planning and zoning commission. The records shall be filed with the village clerk and kept available for public inspection in the office of the village clerk during normal business hours. The village clerk shall attend all planning and zoning commission meetings.

(Ord No. 59, § 4(D), 6-8-1992)

Sec. 2-149. Powers and duties; delegation of powers.

The planning and zoning commission shall have such powers and duties as may be delegated to it by the village council. There are hereby delegated the following:

- (1) The planning and zoning commission shall promote a comprehensive planning process with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the village.
- (2) The planning and zoning commission shall make careful and comprehensive surveys and studies of existing conditions and probable future growth of the village and shall make recommendations on means of protecting and improving the environment.
- (3) The planning and zoning commission shall submit preliminary written reviews and recommendations to the village council on any proposed subdivision, platting or replatting.
- (4) The planning and zoning commission shall have those powers and duties necessary to perform its function as stated within the provisions of the chapter 26.
- (5) The planning and zoning commission may recommend to the village council programs for public improvements and their financing.
- (6) The planning and zoning commission is authorized to confer with other municipal, county, regional, state or federal agencies as it deems necessary.

(Ord No. 59, § 3, 6-8-1992)

Secs. 2-150—2-185. Reserved.**ARTICLE IV. ELECTIONS*****DIVISION 1. GENERALLY****Secs. 2-186—2-208. Reserved.****DIVISION 2. LOCAL ELECTION†****Sec. 2-209. Municipal officers to be elected at the regular local election.**

Pursuant to NMSA 1978, § 1-22-3.1(B), the village opts into the election of its municipal officers in the regular local election.

(Ord. No. 166, § 1, 11-13-2018)

Secs. 2-210—2-226. Reserved.

*State law reference—Local Election Act, NMSA 1978, § 1-22-1 et seq.

†State law reference—Local Election Act, NMSA 1978, § 1-22-1 et seq.

DIVISION 3. MAYOR AND VILLAGE COUNCIL

Sec. 2-227. Terms.

(a) The mayor shall be elected for a four-year term and shall serve until his or her successor is elected and qualified as provided by statute.

(b) The members of the village council shall be elected and serve for staggered four-year terms. (Ord. No. 28, § I, 7-12-1982)

Secs. 2-228—2-267. Reserved.

ARTICLE V. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Secs. 2-268—2-293. Reserved.

DIVISION 2. VILLAGE CLERK

Sec. 2-294. Villager clerk as chief administrative officer.

The village clerk is the chief administrative officer of the village as designated by the village council. (Ord. No. 205, § 5, 3-1-2021)

ARTICLE VI. POLICIES AND PROCEDURES

DIVISION 1. GENERALLY

Secs. 2-295—2-345. Reserved.

DIVISION 2. QUASI-JUDICIAL HEARINGS*

Sec. 2-346. Title.

This division shall be known as the "Quasi-Judicial Hearings Procedure of the Village of Tijeras." (Ord. No. 94, § 1, 4-12-1999)

***State law references**—Appeals to zoning authority quasi-judicial in nature, NMSA 1978, §§ 3-21-8, 3-21-9; decision of zoning authority appeal, NMSA 1978, § 39-3.1-1.

Sec. 2-347. Authority and jurisdiction.

(a) *Authority.* These procedures are adopted, pursuant to NMSA 1978, § 3-12-3, authorizing the governing body of a municipality to determine the rules of its own proceedings and adopt rules and regulations necessary to effect the powers granted municipalities.

(b) *Jurisdiction.* These procedures shall apply to quasi-judicial proceedings before the village council or the planning and zoning commission (commission) of the village.
(Ord. No. 94, § 2, 4-12-1999)

Sec. 2-348. Purpose.

This division is intended to create administrative procedures for quasi-judicial proceedings before the council or the planning and zoning commission to comply with applicable state statutes, caselaw, and procedures for judicial review of administrative decisions of the council or commission.
(Ord. No. 94, § 3, 4-12-1999)

Sec. 2-349. Interpretation.

The provisions of this division are held to be minimum requirements to carry out the purpose of This division and are not intended to interfere with any other laws, covenants, or ordinances. Whenever any provisions of This division are more or less restrictive than other laws, covenants, or ordinances, then whichever is more restrictive shall govern.
(Ord. No. 94, § 4(intro. ¶), 4-12-1999)

Sec. 2-350. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Quasi-judicial proceeding means an administrative hearing which investigates facts, weighs evidence, draws conclusions as a basis for official action, and exercises discretion of a judicial nature.
(Ord. No. 94, § 4(B), 4-12-1999)

Sec. 2-351. Testimony under oath.

(a) All witnesses testifying before the planning and zoning commission or the village council shall be administered the following oath with the witness' right hand raised:

"Do you solemnly declare and affirm, that the testimony that you are about to give shall be the truth, the whole truth, and nothing but the truth under penalty of perjury?"

(b) The oath shall be administered by a notary public to all witnesses testifying before the planning and zoning commission or the village council in a quasi-judicial proceeding, including, but not limited to, the applicant, the applicant's witnesses or consultants, and village officials, employees, staff, or consultants, who offer testimony relating to a pending matter.
(Ord. No. 94, § 5, 4-12-1999)

Sec. 2-352. Deliberations.

The planning and zoning commission or village council after hearing all evidence and arguments on a matter may upon motion, approved by a majority, adjourn to a closed meeting consistent with the provisions of the Open Meetings Act. The planning and zoning commission or village council shall then reconvene in open meeting for motion and action. All motions to approve or deny an application pending before the planning and zoning commission or the village council shall include a statement of the factual and legal basis for the motion (i.e., state the reasons for approval or denial). Only those subjects announced and voted upon prior to closure of the meeting for deliberation may be discussed in the closed meeting. Minutes of the open meeting that was closed for deliberation shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure.
(Ord. No. 94, § 6, 4-12-1999)

Sec. 2-353. Written decision.

Subsequent to each planning and zoning commission or village council meeting at which a decision in a quasi-judicial proceeding is made, the village clerk shall prepare a written decision that includes the order granting or denying relief and the stated factual and legal basis for the decision for signature of the chair of the planning and zoning commission or village council for filing with the public records of the village. Such written decision shall incorporate the decision and statement of the factual and legal basis for the decision made by the planning and zoning commission or village council upon granting or denying the relief requested. Upon signature and filing of the written decision, the village clerk shall mail, upon request, a copy of the decision and the requirements for filing an appeal of the final decision to:

- (1) All parties whose rights are adjudged by the final decision; and
- (2) Every person who has filed a written request for notice of the final decision in the particular proceeding.

(Ord. No. 94, § 7, 4-12-1999)

Sec. 2-354. Records of proceedings.

The village clerk shall prepare a recording of all quasi-judicial proceedings of the village council or the planning and zoning commission. The village clerk shall maintain a list in numerical order of all documents or exhibits received into the record. Each document or exhibit received into the record shall be separately numbered with the date of receipt or filing noted thereon. Recordings of all quasi-judicial proceedings, exhibits and documents received into the record and lists thereof shall be retained for six months after the period for appeal has expired, or any appeal or litigation related to any decision is no longer pending and has been finally decided.

(Ord. No. 94, § 8, 4-12-1999)

Sec. 2-355. Appeal.

A person aggrieved by final decision of the planning and zoning commission may appeal the decision to the village council by filing a notice of appeal with the village clerk within 30 days of the date of filing of the final decision of the planning and zoning commission. A person aggrieved by final decision of the

village council may appeal the decision to the district court for the Second Judicial District for the State of New Mexico by filing in the district court a notice of appeal within 30 days of the date of the filing of the final decision pursuant to NMSA 1978, § 39-3-1.1 and pursuant to Rule 1-074 of the rules of Civil Procedure for the District Courts of the State of New Mexico.

(Ord. No. 94, § 9, 4-12-1999)

Chapter 3

RESERVED

Chapter 4

ANIMALS*

Article I. In General

- Sec. 4-1. Short title and legislative intent.
- Sec. 4-2. Definitions.
- Sec. 4-3. Interference with the county manager in the performance of his duties prohibited.
- Sec. 4-4. Shelter for animals.
- Sec. 4-5. Penalty.
- Secs. 4-6—4-28. Reserved.

Article II. Administration

Division 1. Generally

- Sec. 4-29. Rules and regulations.
- Sec. 4-30. Procedures for complaints.
- Sec. 4-31. Procedure for county manager and animal care services officers.
- Sec. 4-32. Waiver.
- Sec. 4-33. Fees.
- Secs. 4-34—4-54. Reserved.

Division 2. Permits

- Sec. 4-55. General provisions.
- Sec. 4-56. Site permit requirements.
- Sec. 4-57. Breeder permit.
- Sec. 4-58. Litter permit.
- Sec. 4-59. Requirements for sale of offspring.
- Sec. 4-60. Guard dog permit.
- Sec. 4-61. Intact animal permit.
- Sec. 4-62. Suspensions, revocations of permits.
- Sec. 4-63. Appeal procedures for permit denial, suspension or revocation.
- Secs. 4-64—4-84. Reserved.

Division 3. License

- Sec. 4-85. Animal license.
- Sec. 4-86. Vaccinations.
- Sec. 4-87. Exemption for licensed research facilities.
- Secs. 4-88—4-117. Reserved.

Article III. Care and Control

- Sec. 4-118. Animals biting persons.

***State law references**—General authority relative to animals, NMSA 1978, §§ 4-37-1, 3-18-3; authority regarding animal care and control, NMSA 1978, § 3-18-3; animals generally, NMSA 1978, § 77-1-1 et seq.

TIJERAS CODE

- Sec. 4-119. Number of animals allowed.
- Sec. 4-120. Restraint of animals.
- Sec. 4-121. Abandonment.
- Sec. 4-122. Admission of qualified assistance animals to public places.
- Sec. 4-123. Animals disturbing the peace.
- Sec. 4-124. Animals killing or injuring livestock or protected wildlife.
- Sec. 4-125. Animal poisoning.
- Sec. 4-126. Animals running at large.
- Sec. 4-127. Injury to animals by motorists.
- Sec. 4-128. Animals transported in vehicles.
- Sec. 4-129. Animal waste.
- Sec. 4-130. Breaking into animal care services facilities or vehicles.
- Sec. 4-131. Care and maintenance of companion animals.
- Sec. 4-132. Care and maintenance of livestock.
- Sec. 4-133. Confinement of female dogs or cats in mating season.
- Sec. 4-134. Cruelty to animals.
- Sec. 4-135. Fights.
- Sec. 4-136. Fowl; impounding or crating.
- Sec. 4-137. Hobbling.
- Sec. 4-138. Keeping a seriously sick or injured animal.
- Sec. 4-139. Sale and display of animals.
- Sec. 4-140. Sterilization agreements/contracts.
- Sec. 4-141. Unlawful use of rabies tag.
- Sec. 4-142. Vicious or dangerous animals.
- Secs. 4-143—4-167. Reserved.

Article IV. Wild and Hybrid Animals

- Sec. 4-168. Retention of strays or owner-surrendered animals.
- Sec. 4-169. County animal care services facilities.
- Secs. 4-170—4-184. Reserved.

Article V. Animal Care Services Impoundment Procedures

- Sec. 4-185. Impounding animals.
- Sec. 4-186. Seizure of animals, excluding livestock.
- Sec. 4-187. Seizure of livestock.
- Secs. 4-188—4-194. Reserved.

Article VI. Wild Animals; Canine Hybrids

- Sec. 4-195. Wild animals.
- Sec. 4-196. Canine hybrids.

ARTICLE I. IN GENERAL**Sec. 4-1. Short title and legislative intent.**

(a) This chapter shall be known and may be cited as the "Bernalillo County Animal Care Services Ordinance" as adopted by the village council.

(b) It is the intent of the board of county commissioners that enactment of this chapter will protect animals from neglect and abuse, will protect residents from annoyance and injury, will encourage responsible ownership of animals as pets, will assist in providing housing for animals in a control center and will partially finance the animal care services department's functions of housing, licensing, enforcement and recovery. It is the intent of the board of county commissioners to organize and utilize advisory groups to assist with improving public awareness about subjects pertaining to the enactment of this chapter.

(Ord. of 2-26-2013; Ord. No. 185, § 6-30, 6-22-2020)

Sec. 4-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means to leave an animal for more than 24 hours without making effective provisions for its proper feeding and care.

Adequate food means access to and the provision of food that is appropriate to the species and of sufficient quantity and nutritive value to maintain each animal in good health; is easily accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a licensed veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

Adequate living area means adequate space for exercise suitable to the age, size, species and breed of animal and includes adequate shelter and shade independent of shelter.

Adequate shelter means provision of and access to shelter that is suitable for species, age, condition, size and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species.

Adequate space for exercise for confined animals includes, but is not limited to, provision within the adequate living area of space that enables the animal to sit, hop, stand or rear up on its hind legs, run, jump, and play with others of its species or with toys without hitting him/herself against the top of the enclosure.

Adequate space to prevent overcrowding includes, but is not limited to, sufficient space to allow animals restrained together to be able to move freely, turn around and lie down without having to come into contact with another animal or the sides of the enclosure.

Adequate water means constant access to a supply of unfrozen, potable water, provided in a sanitary manner suitable for species, in sufficient amounts to maintain good health. Such water will be provided in a manner that prevents the container from being overturned.

Animal means any vertebrate member of the animal kingdom, except humans.

Animal care services means the staff, facility, programs, shelter, lot, premises, and buildings maintained by the county for the implementation of the control and care of animals.

Animal care services officer means a county animal care services officer or supervisor.

Animal fighting paraphernalia means equipment that any reasonable person would ascertain is used for animal fighting purposes which includes, but is not limited to:

- (1) Instruments designed to be attached to the leg of a bird, such as a boxing gloves, knife, gaff, or other sharp instrument;
- (2) Items to train and condition animals to fight, including, but not limited to, hides or other material used as hanging devices to strengthen and/or condition dogs, wooden sticks or handles used to pry open dog's jaws, performance enhancing drugs or substances, or food or water additives; and
- (3) The presence of any animal that appears to be a fighting animal alone or together with animals suspected of being used as bait animals, including, but not limited to, rabbits, cats, and other dogs.

Bait animal means an animal used to train and/or condition other animals to fight and includes, but is not limited to, dogs, cats, and rabbits exposed to attack by other animals used or trained to be used in fighting or to make the attacking animal more confident and aggressive.

Bite means an actual puncture or tear of the skin inflicted by the teeth of an animal.

Bona fide animal show includes events sanctioned by organizations such as the American Kennel Club (AKC) or North American Dog Agility Council (NADAC), generally organized by local clubs, and including conformation events or performance events such as obedience, agility, and tracking.

Breeder means a person who keeps, maintains or harbors any intact dog or cat for the purposes of breeding.

Breeding means permitting, either intentionally or unintentionally, a female dog or cat to produce offspring.

Canine hybrid means:

- (1) Any canine which has or had a pure wolf or pure coyote as a parent or grandparent;

- (2) An animal represented by its owner to an animal care services officer, law enforcement officer, or to a veterinarian to be the offspring, cross, mix, or hybrid of a wolf or coyote within the preceding two generations; or
- (3) Any animal which, because of its pure wolf or pure coyote ancestry, cannot be vaccinated against rabies.

Companion animal means, but is not limited to, dogs, cats, ferrets, guinea pigs, domestic rabbits, and pot-bellied pigs.

Confinement means detainment or isolation of an animal.

County means the area within the jurisdictional boundaries of the County of Bernalillo, including privately owned land, excluding the area within the jurisdiction of the United States government or the state.

County manager means the manager of Bernalillo County or his or her designated representative.

Dangerous animal means any of the following:

- (1) An animal which, when unprovoked, engages in behavior that requires a defensive action by a person to prevent bodily injury to a person or another animal which is off the property of the owner of the animal in question;
- (2) An animal which, when unprovoked, injures a person in a manner which does not result in muscle tears or disfiguring lacerations, or require extensive corrective or cosmetic surgery; or
- (3) An animal which, because of its poisonous sting or bite, would constitute a significant hazard to the public.

Designee or *designated representative* means the animal care services director or other appropriate staff.

Director means the director of the county animal care services department.

Enclosed means a parcel of land completely surrounded at the perimeter by a wall or fence of sufficient height and strength to contain animals within. *Establishment* means a place of business together with its grounds and equipment.

Grooming parlor means an establishment or part thereof maintained for the purposes of performing cosmetological services for animals.

Guard dog means a dog that is used to protect a commercial property but excludes a dog used exclusively to guard livestock.

Household means the collection of individuals, related or not, who reside at one street address.

Kennel means a commercial establishment operating for intended profit where dogs or cats are boarded, kept, or maintained.

Kennel area is a secure space within which an animal is housed that is of sufficient height and strength to contain the animal within and provide sufficient room for the animal to comfortably move around within the structure.

Licensed veterinarian means an individual with a Doctor of Veterinary Medicine degree who is licensed to practice in the state.

Livestock means horses, cattle, pigs, sheep, goats, fowl, or any other domestic animals typically used in the production of food, fiber, or other products or activities defined by the county manager as agricultural.

Multiple animal site means any property where the number of dogs or cats owned, harbored or kept exceeds the number of animals allowed in section 4-119 and are not otherwise included within the definition of "professional animal site" or "shelter site."

Owner/responsible party means a person 18 years of age or older or the parent or guardian of a person under 18 years of age who owns, harbors, keeps an animal, has one in his care, or permits an animal to remain on or about the premises owned or controlled by him.

Pet shop means any premises, or part thereof, open to the public which engages in the purchase, sale, exchange or hire of animals of any type, except the term "pet shop" shall not apply to premises used exclusively for the sale of livestock.

Potable water means water that can be consumed without concern for adverse health effects.

Premises means a parcel of land and the structures thereon.

Professional animal site means any kennel, grooming parlor, or pet shops, with the exception of sites solely dedicated to livestock, state inspected veterinary hospitals and federally inspected laboratory facilities and zoos.

Qualified assistance animal means:

- (1) A dog trained or being trained by a recognized school for training dogs to assist persons with disabilities;
- (2) An animal recognized as a service animal pursuant to the Americans with Disabilities Act of 1990; or
- (3) Any other animal approved by the governor's committee on concerns of the handicapped as acceptable in public places and trained to provide some special assistance to a person with a disability.

Quarantine means detention and isolation of an animal in order to observe for rabies.

Rabbit, as used in this chapter, may be either a companion animal or livestock.

Research facility means any school, institution, organization or person as defined in the Animal Welfare Act of 1970, 7 USC 2132, and recognized as exempted from the anticruelty provisions contained in NMSA 1978, § 30-18-1.

Shade independent of shelter includes, but is not limited to, trees, shrubs, bushes, patios, awnings or other natural or manmade structures that permit animals to be sheltered from direct sunlight in a manner that provides adequate space to prevent overcrowding.

Shelter facility means a non-profit animal facility operated for the purposes of bringing aid and comfort to a number of dogs or cats that exceeds the number of animals allowed in section 4-119 or this chapter.

Shelter site means a non-profit facility operated for the purpose of bringing aid or comfort to a number of dogs or cats that exceeds the number of animals allowed in section 4-119.

Show animal means a dog or cat, which is registered with a recognized registry organization, or is a member of a breed which is not eligible to be registered if that breed has been approved by the county manager, and which is involved in bona fide animal shows.

Sterilized means to be rendered permanently incapable of reproduction.

Stray means an animal found running at large.

To run or running at large means any animal free from physical restraint beyond the boundaries of the owner's premises.

Vaccination means protection provided against rabies by inoculation with a vaccine as required by NMSA 1978, § 77-1-3.

Vicious animal means an animal which kills or severely injures (so as to result in muscle tears or disfiguring lacerations, require multiple sutures, or extensive corrective or cosmetic surgery) a person or domesticated animal. The term "vicious animal" does not include an animal which bites, attacks or injures a person or animal that is unlawfully upon its owner's premises. The provocation of an animal by a person is an affirmative defense to a charge of keeping or harboring a vicious animal. (Ord. of 2-26-2013; Ord. No. 185, § 6-31, 6-22-2020)

Sec. 4-3. Interference with the county manager in the performance of his duties prohibited.

(a) No person shall attack, assault or in any way threaten or interfere with the county manager in the performance of the duties required by this chapter.

(b) No person shall conceal one's true name or identity or disguise oneself with the intent to obstruct due execution of the law or with the intent to intimidate, hinder or interrupt an animal care services officer in the legal performance of his or her duties.

(c) No person shall interfere with or tamper with any equipment used by animal care services officers, including release of animals contained in such equipment.

(d) No person shall engage in conduct that would agitate, obstruct, oppose, or distract an animal care services officer in the legal performance of his or her duties.

(Ord. of 2-26-2013; Ord. No. 185, § 6-62, 6-22-2020)

Sec. 4-4. Shelter for animals.

(a) Shelter for companion animals shall consist of one of the following:

(1) Inside the residence of the animal's owner.

- (2) A shelter that is an enclosed structure of appropriate dimensions for the breed and size of the animal, consisting of four sides, a roof, an entryway, a floor, and suitable insulation protecting the animal from the elements.
 - a. The shelter shall be structurally sound and of solid construction with no cracks, open seams or holes and the entire structure shall be leak-proof.
 - b. The shelter shall be maintained in good repair to protect the animals from injury.
 - c. The shelter shall be free of standing water or mud, unless such standing water or mud is appropriate to maintaining good health, and free of accumulated waste and debris.
 - d. The shelter shall contain suitable bedding as appropriate to species and/or insulation suitable for the breed when the outdoor temperature is below 45 degrees unless the shelter is heated.
 - e. The shelter shall have adequate ventilation.
 - f. The shelter shall be sufficient in size to allow each animal to stand up, turn around, lie down and stretch comfortably.
 - g. The areas beneath a car, truck, mobile home or machinery do not qualify as shelter.
 - (3) A structure, including, but not limited to, a garage, barn or shed, that is sufficiently insulated and ventilated to protect the animal from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a shelter as provided in the balance of this subsection that is accessible to the animal.
 - (b) Shelter for livestock shall also require that:
 - (1) Adequate shelter for equines shall consist of, at minimum, two sides and a roof.
 - (2) The shelter shall be sufficient in size to allow each animal to stand up, turn around, lie down, and stretch comfortably.
 - (3) The shelter shall be free of standing water or mud, unless such standing water or mud is appropriate to maintaining good health, and free of accumulated waste and debris.
 - (4) The shelter shall contain suitable bedding as appropriate to species.
 - (5) The shelter shall have adequate space and ventilation.
 - a. Adequate space to prevent overcrowding includes, but is not limited to, sufficient space to allow animals restrained together to be able to move freely, turn around and lie down without having to come into contact with another animal or the sides of the enclosure.
 - b. Adequate space for exercise for confined animals shall include, but not be limited to, provision within the adequate living area of space that enables the animal to sit, hop, stand or rear up on its hind legs, run, jump, and play with others of its species or with toys without hitting him/herself against the top of the enclosure.
- (Ord. of 2-26-2013; Ord. No. 185, § 6-31, 6-22-2020)

Sec. 4-5. Penalty.

Except as provided in this chapter, violations of this chapter are punishable as provided in section 1-6 of the Bernalillo County Code.

(Ord. of 2-26-2013; Ord. No. 185, § 6-70, 6-22-2020)

Secs. 4-6—4-28. Reserved.**ARTICLE II. ADMINISTRATION****DIVISION 1. GENERALLY****Sec. 4-29. Rules and regulations.**

Reasonable rules and regulations may be prescribed by the county manager to carry out the intent and purpose of this chapter, pursuant to standards created by this chapter. The county manager may delegate his powers to the director as he may deem expedient. The director may delegate such powers to the duly appointed animal care services officers as he may deem expedient. An animal care services officer shall wear a uniform and shall carry appropriate identification. Identification is to be surrendered to the county upon cessation of employment.

(Ord. of 2-26-2013; Ord. No. 185, § 6-32, 6-22-2020)

Sec. 4-30. Procedures for complaints.

(a) A complaint alleging any violation of this chapter may be filed with the animal care services department by a person who has personal knowledge of such violation and who can identify the owner of the animal involved or the premises where the animal is located. The county manager may require the complainant to provide his name and address and swear to and affirm the complaint.

(b) It is unlawful for any person to intentionally make a report to the county manager, which that person knows to be false at the time of making it, alleging a violation by another person of any violation of the Bernalillo County Animal Care Services Ordinance.

(Ord. of 2-26-2013; Ord. No. 185, § 6-33, 6-22-2020)

Sec. 4-31. Procedure for county manager and animal care services officers.

(a) The county manager, director and animal care services officers shall have the authority, and are directed to investigate upon probable cause, any alleged violation of this chapter or of any law of the state relating to the care, treatment, control and prevention of cruelty to animals.

(b) Animal care services officers are authorized to inspect premises as necessary to perform their duties. If the owner or occupant of the premises objects to inspection, a warrant shall be obtained from a court of competent jurisdiction prior to inspection. No warrant shall be necessary if probable cause exists to believe that there is an emergency requiring such inspection or investigation.

(c) Whenever the county manager has probable cause to believe that a person has violated this chapter, the county manager may prepare a criminal complaint to be filed with the appropriate court or prepare a citation for the alleged violator to appear in court. The citation shall contain the name, address, date of birth and telephone number, if known, of the person violating this chapter, the driver's license number of such violator, if known, the code section allegedly violated, and the date and place when and where such person allegedly committed the violation, and the location where such person shall appear in court and the deadline for appearance. The county manager shall present the citation to the person he has probable cause to believe violated the code section in order to secure the alleged violator's written promise to appear in court by having the alleged violator sign a copy of the citation. The county manager shall deliver a copy of the citation to the person promising to appear.

(d) If the alleged violator refuses to give his written promise to appear, the county manager shall prepare a criminal complaint with the county metropolitan court.
(Ord. of 2-26-2013; Ord. No. 185, § 6-34A, 6-22-2020)

Sec. 4-32. Waiver.

(a) The county manager shall have the authority to grant waivers.

(b) Any person seeking a waiver pursuant to the ordinance from which this chapter is derived shall file a written application with the county manager. The written application shall contain information which describes the ordinance section for which a waiver is requested and the reason for the waiver.

(c) In determining whether to grant or deny the application, the county manager shall balance the hardship to the applicant, the community and other persons of not granting the waiver against the potential adverse impact on the animals and residents affected.

(d) Waivers shall be granted by notice to the applicant and may include all necessary conditions, including time limits on the permitted activity. The waiver shall not become effective until all conditions are agreed to by the applicants. Noncompliance with any condition of the waiver shall terminate it and subject the person holding it to those provisions of this chapter.

(e) Any person seeking a waiver shall indicate in his or her application to the county manager the specific reason why he or she should not be required to meet the established ordinance criteria. The applicant shall also include a written statement that he or she has personally contacted all residents of properties within 400 feet of the property in question and none oppose the waiver being requested.
(Ord. of 2-26-2013; Ord. No. 185, § 6-34B, 6-22-2020)

Sec. 4-33. Fees.

Fees for licenses and permits required pursuant to this chapter shall be established and adopted through resolution by the board of county commissioners.
(Ord. of 2-26-2013; Ord. No. 185, § 6-35, 6-22-2020)

Secs. 4-34—4-54. Reserved.

DIVISION 2. PERMITS

Sec. 4-55. General provisions.

Valid permits are required to operate a multiple animal site, professional animal site, or shelter site, breed dogs or cats, have a litter of dogs and cats, possess a guard dog or possess an intact dog or cat that has been impounded as a stray. A person may obtain a permit under the following conditions:

- (1) Submission of an application which shall include sufficient information to identify the name and address of the permit holder and owner for the property or site and payment of an annual permit fee at the office of the animal care services department. Failure to renew the permit within 30 days of the expiration date may result in the assessment of a penalty fee in addition to the cost of the permit.
- (2) Multiple animal site, professional animal site and shelter site permits require a demonstration of a certification of zoning and land use from the county zoning department.
- (3) Upon presenting proper identification and with notice, an animal care services officer shall be allowed access to any multiple animal site, professional animal site or shelter site for the purpose of inspection. Permits may be suspended for failure to comply with the requirements of this chapter, as well as for violation of other applicable laws, regulations, and ordinances.
- (4) Permits must be posted in a conspicuous place on the permitted premises and are nontransferable.
- (5) All permit holders engaging in any commercial activity involving the sale of animals shall comply with the Bernalillo County Business License Ordinance.
(Ord. of 2-26-2013; Ord. No. 185, § 6-39, 6-22-2020)

Sec. 4-56. Site permit requirements.

(a) Multiple animal sites, shelter sites and professional animal sites are required to meet all other provisions of the Bernalillo County Animal Care Services Ordinance and the following standards:

- (1) Food and unused bedding shall be stored in a location which protects it against excessive moisture, infestation and contamination.
- (2) Perishable food shall be refrigerated.

(b) The kennel area shall be kept clean and sanitary in a way that protects animals from disease and injury. Animals shall be protected from cleaning agents during cleaning. Provisions shall be made to remove animal and food waste and clean or remove soiled bedding at minimum daily and as often as necessary to maintain the conditions in accordance with this chapter. Disposal shall be made so as to minimize vermin infestation, odors and the spread of disease.

(c) Kennel area buildings and fences shall be structurally sound and kept in good repair to keep animals clean and dry, protect them from injury, contain them and keep predators out. Walls and floors shall be constructed of material impervious to moisture and easily sanitized. Adequate drainage shall be maintained, and when required, drains shall be constructed and operated in accordance with state and county regulations and kept in good repair.

(d) Fresh air in kennel area buildings shall be provided by windows, doors, vents or air conditioning. Ventilation shall minimize drafts, odors and moisture condensation.

(e) Each animal shall be kept in compatible groups and have adequate space to prevent overcrowding. Kennel areas holding cats must contain an adequate number of litter boxes.

(f) All animals housed in the kennel area shall be provided with an adequate living area.

(g) Unsterilized female animals shall be segregated when in estrous except for breeding purposes.

(h) Each animal shall be observed daily by the person named on the permit or his/her designee. Any animal in need of veterinary attention, either due to illness, injury or disease, shall be provided such attention immediately. Ill and injured animals shall be segregated from other animals based on veterinary recommendations to prevent disease spread or further injury.

(i) Insects, parasites and rodents shall be controlled.

(j) A valid rabies certificate signed by a licensed veterinarian shall be present for each dog and cat housed at the kennel facility.

(k) Records of animal inventory, including acquisitions and dispositions, inoculations, and disease control and prevention programs shall be maintained and available for inspection by an animal care services officer.

(Ord. of 2-26-2013; Ord. No. 185, § 6-39A, 6-22-2020)

Sec. 4-57. Breeder permit.

(a) No person shall keep, maintain or harbor any intact dog or cat for the purposes of breeding without a breeder permit. Each dog or cat used for the purposes of breeding shall have a breeder permit. The resultant offspring shall not be sold for resale to commercial outlets or for the purpose of research.

(b) A female dog or cat shall have no more than one litter in any consecutive 12-month period.

(c) Upon presenting identification and with notice, an animal care services officer shall be allowed access to any premises housing any animal with a breeder permit for the purpose of an inspection.

(Ord. of 2-26-2013; Ord. No. 185, § 6-39B, 6-22-2020)

Sec. 4-58. Litter permit.

(a) The owner of an intact female dog or cat bred intentionally or unintentionally that does not possess a breeder permit is required to obtain a litter permit for each litter.

(b) Subsequent to the issuance of a litter permit, the permitted animal shall be sterilized within 120 days of the issuance of the litter permit.

(Ord. of 2-26-2013; Ord. No. 185, § 6-39C, 6-22-2020)

Sec. 4-59. Requirements for sale of offspring.

(a) No person shall advertise, barter for, sell, or give away any puppy or kitten unless the applicable permit number is displayed legibly in all advertisements. The owner shall furnish the litter permit number or breeder permit number to any potential recipient upon request.

(b) Puppies and kittens can only be bartered for, sold, given away or otherwise transferred or conveyed from the residential location listed on the litter permit or breeder permit. Puppies or kittens being bartered for, sold, given away or otherwise transferred or conveyed on public or commercial property, even with the commercial property owner's permission, are in violation of this chapter. (Ord. of 2-26-2013; Ord. No. 185, § 6-39D, 6-22-2020)

Sec. 4-60. Guard dog permit.

(a) No person shall use a guard dog without a valid permit. A person may obtain a guard dog permit under the following conditions:

- (1) Submission of an application which shall include sufficient information to identify the name and address of the owner of the commercial property and the name and address of the owner of the guard dog, and payment of an annual guard dog permit fee at the office of the animal care services department; and
- (2) Guard dog permit holders are required to meet all other provisions of the Bernalillo County Animal Care Services Ordinance and the area where the guard dog is to be used shall be secured in such a manner as to prevent its escape.
 - a. The doors, windows, and all openings to the outside of a building in which a guard dog is on duty shall be secured to prevent its escape.
 - b. An outdoor property holding a guard dog shall be completely enclosed by a fence at least six feet in height and shall effectively contain the animal at all times.

(b) The property using a guard dog shall be posted with warning signs at least 12 inches long on each side.

- (1) The warning signs shall state "guard dog" and "perro guardián" and shall show a picture of an aggressive dog.
- (2) The warning signs shall be posted not more than 200 feet apart on the exterior of the fences and walls surrounding the property and shall be posted at all exterior corners of the site and at every entrance to the site.

(c) A guard dog shall have a current rabies tag and a valid license tag securely affixed to its collar or harness.

(Ord. of 2-26-2013; Ord. No. 185, § 6-39E, 6-22-2020)

Sec. 4-61. Intact animal permit.

(a) Any person having a stray unsterilized dog or cat returned to him or reclaiming an impounded unsterilized dog or cat will obtain an intact animal permit or have the animal sterilized within 60 days of return. The permit shall be issued upon payment of the required permit fee and proof that they possess a current county license and rabies vaccination for the animal. The permit will be renewed annually until proof of sterilization has been provided to the animal care services department.

(b) Any animal found running at large twice shall be sterilized within 30 days of the second offense.

(c) An intact animal permit is required to keep a dog or cat exempt from being sterilized as mandated by applicable law when released prior to impound from an animal shelter.
(Ord. of 2-26-2013; Ord. No. 185, § 6-39F, 6-22-2020)

Sec. 4-62. Suspensions, revocations of permits.

(a) When the county manager discovers that a permitted premises is in violation of this chapter, he shall give notice of the violations to the permit holder, operator or person in charge by means of an inspection report or other written notice. The notification shall:

- (1) Set forth each specific violation.
- (2) Establish a specific and reasonable period of time for the correction of the violation.
- (3) State that failure to comply with a notice issued in accordance with the provisions of this chapter may result in immediate suspension or revocation of the permit.
- (4) State that an opportunity for appeal from a notice or inspection findings will be provided if a written request for a hearing is filed with the county manager within five days of receipt of the notice.

(b) Notices under this section shall be deemed properly served and received when the original inspection report or other notice has been personally served on the person in charge or sent by registered or certified mail to the last-known address of the permit holder.

(c) Permits may be suspended for failure of the holder to comply with the requirements of this chapter or other applicable laws, ordinances or regulations. The suspension may be lifted when the county manager determines the violations have been corrected.

(d) Permits may be revoked for serious or repeated violations of the requirements of this chapter, or for violation of other applicable laws, ordinances or regulations. A permit shall be revoked for one year. The permit shall be surrendered to the county manager, upon suspension or revocation.

- (1) A person whose permit has been suspended may apply for an inspection of the premises for the purpose of reinstating the permit. If the applicant and the site are in compliance with the requirements of this chapter and all other applicable laws, ordinances and regulations, the permit shall be reinstated. The reinstated permit shall expire on the date of expiration of the previously suspended permit.
- (2) If an exotic or wild animal permit is suspended or revoked, all animals received, purchased, owned or kept under the authority of the permit shall be surrendered to the county manager for impoundment. After a period of at least seven days, if the violations of this chapter which resulted in suspension or revocation of the permit have not been corrected, the county manager may sell or dispose of the animal as provided in this chapter. The applicant may appeal the suspension or revocation in the manner provided in section 4-63.

(Ord. of 2-26-2013; Ord. No. 185, § 6-71, 6-22-2020)

Sec. 4-63. Appeal procedures for permit denial, suspension or revocation.

(a) A person whose application for a permit or permit renewal has been approved on condition or denied and a permit holder whose permit has been suspended or revoked, may submit to the county manager a written request for a hearing. The written request must be received within five days of the applicant's receipt of the written notice from the county. The hearing shall be conducted within a reasonable time after the county manager receives the request for a hearing.

(b) Hearings shall be conducted by a hearing officer at a time and place designated by the county manager and shall be recorded. All witnesses shall be sworn or affirmed. Written notice of the time and place of the hearing shall be mailed to the applicant and the county manager.

(c) The applicant shall be afforded a fair hearing which provides the basic safeguards of due process which shall include:

- (1) The opportunity to examine before the hearing and, at the expense of the applicant, to copy all documents, records and regulations of the county manager that are relevant to the hearing. Any document not made available by the county manager, after written request by the applicant, may not be relied upon by the county manager at the hearing.
- (2) The right to be represented by counsel or other persons chosen as his representative.
- (3) The right to present evidence and arguments in support of his appeal to controvert evidence relied on by the county manager, and to confront and cross examine all witnesses on whose testimony or information the county manager relies.
- (4) A decision based solely and exclusively upon the facts presented at the hearing.

(d) The hearing officer shall prepare a written report of his findings and decision within ten days after the hearing and shall provide copies to the parties.

(Ord. of 2-26-2013; Ord. No. 185, § 6-72, 6-22-2020)

Secs. 4-64—4-84. Reserved.

DIVISION 3. LICENSE

Sec. 4-85. Animal license.

(a) It is unlawful for any person to own or harbor a dog, cat, or ferret over the age of three months without obtaining a license for such animal. Persons who are not county residents and who keep such an animal in the county for less than 30 consecutive days shall be exempt from this license requirement.

(b) Applications for licenses shall be made on forms provided by the animal care services department. All applications shall include the name of the legal owner of the animal, the mailing address and physical address of the owner. It is unlawful for any person to knowingly falsify information concerning animal ownership, the owner's address, animal description, or any other information required on the application.

(c) Licenses shall be purchased for one year. A three-year license may be purchased for a dog, cat, or ferret if the animal has a current three-year rabies certificate, which is good for at least two-thirds of the licensing period. A one-year or three-year license must be renewed upon its expiration date. Failure to renew the license within 30 days of the expiration date shall result in the assessment of a penalty fee in addition to the cost of the license.

(d) A current rabies certificate must be presented at the time of applying for a license.

(e) Pet identification is mandatory. The method of identification shall include a microchip.

(f) The current license tag shall be securely affixed to the collar or harness which shall be worn by a dog, cat or ferret unless the animal is being housed in a kennel or veterinary hospital, or appearing in a bona fide animal show, or is being trained; provided, however, that the person who is training the animal shall have in his personal possession proof of a valid license for each animal and shall immediately display the license upon request by the animal care services department.

(g) Identification methods must be kept up to date and current with owner information.

(h) License tags shall not be transferred from animal to animal.

(i) Proof of qualification for a license for a sterilized animal can only be made with a written certification from a licensed veterinarian stating that the animal has been neutered or spayed.

(j) The license fee shall not apply to qualified service animals. All other licensing requirements shall apply.

(Ord. of 2-26-2013; Ord. No. 185, § 6-41, 6-22-2020)

Sec. 4-86. Vaccinations.

(a) It is the duty of any person owning or keeping a dog, cat, or domestic ferret over the age of three months to have the animal vaccinated against rabies as prescribed by NMSA 1978, § 77-1-3, as amended. The county manager may require that other animals have annual rabies vaccines.

(b) The veterinarian administering anti-rabies vaccines to any animal shall issue the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner of the animal, a description of the animal vaccinated, the date of vaccination, and the date immunity expires and the microchip number.

(c) The veterinarian shall also furnish the owner or keeper with a metal tag bearing the certificate number. A current rabies tag shall be affixed by the owner or keeper to a collar or harness worn by the animal at all times unless the animal is being kept in an approved kennel or veterinary hospital, is being trained by a professional trainer or is appearing in an approved show.

(d) It is unlawful for the owner of any dog, cat, domestic ferret or any other member of the canine or feline family to fail to exhibit its certificate of vaccination upon demand by the county manager. This subsection does not apply to any animal under control of the Albuquerque Municipal Zoo or shelters.

(e) For licensing purposes, a medical waiver certificate may be acceptable in cases when the rabies vaccination of an animal would pose a substantial threat to the health of the animal. The certificate shall be on official letterhead from a licensed veterinarian and shall contain the name and address of the owner of the animal, a description of the animal, the medical condition prohibiting vaccination, and the date upon which a vaccination may be given. A medical waiver certificate must be resubmitted annually.

(Ord. of 2-26-2013; Ord. No. 185, § 6-44, 6-22-2020)

State law reference—Rabies control generally, NMSA 1978, §§ 77-1-5, 77-1-6, 77-1-10.

Sec. 4-87. Exemption for licensed research facilities.

The provisions of the Bernalillo County Animal Care Services Ordinance do not apply to research facilities licensed pursuant to the provisions of 7 USC 2136, except when knowingly operating outside provisions governing the treatment of animals of a research or maintenance protocol approved by the institutional animal care and use committee of the facility. If the facility is found to knowingly act outside these protocols the county may enforce its anti-cruelty provisions as allowed under NMSA 1978, § 30-18-1.

(Ord. of 2-26-2013; Ord. No. 185, § 6-76, 6-22-2020)

State law reference—Similar provisions, NMSA 1978, § 30-18-1.

Secs. 4-88—4-117. Reserved.

ARTICLE III. CARE AND CONTROL

Sec. 4-118. Animals biting persons.

(a) The owner of an animal that bites a person and a person bitten by an animal shall report that occurrence to the animal care services department within 24 hours of the occurrence. The owner of an animal that bites a person shall surrender said animal to an animal care services officer if the officer deems it necessary to impound said animal for a period of quarantine no less than ten days from the day of the bite.

(b) A physician who renders professional treatment to a person bitten by an animal shall report to the county manager that he has rendered professional treatment within 24 hours of his first professional attendance. The physician shall report the name and address of the person bitten as well as the type and location of the bite. The physician shall report the name and address of the owner of the animal that inflicted the bite, if known, and any other facts or details that may assist the animal care services in ascertaining the immunization status of the animal.

(c) An animal that bites a person shall be confined securely at a place and for a period of time deemed necessary by the animal care services officer. The owner of the animal shall bear the cost of confinement.

(d) If the owner is unwilling or unable to quarantine the animal, the animal care services officer may impound the animal into protective custody for the period of the quarantine and the owner shall pay all related costs of the impoundment prior to reclaiming the animal.

(e) The animal care services officer may consent to quarantine the animal on the owner's premises. The premises where the home quarantine is to occur shall be inspected and approved for such purpose by the animal care services officer. The owner of the animal shall be required to enter into an indemnity agreement on a form approved and prescribed by the county manager for such home quarantine.

(f) If the animal shows signs of sickness, abnormal behavior, or if the animal escapes quarantine, the person having custody of the animal shall immediately notify the animal care services department. The person having custody of an animal that dies during the quarantine period shall notify the animal care services department and surrender the carcass of the animal to an animal care services officer.

(g) It is unlawful to violate the conditions of quarantine. If an officer deems it necessary to impound an animal for quarantine for violation of the above conditions and/or severity of the bite, the owner cannot remove the animal from observation until the quarantine period is complete. The owner shall bear the cost of the impoundment.

(h) It is unlawful for a person to keep an animal reported to have bitten any person on two unprovoked separate incidents. The owner has a duty to destroy said animal humanely or surrender such an animal to the animal care services department for proper humane euthanization.

(Ord. of 2-26-2013; Ord. No. 185, § 6-40, 6-22-2020)

Sec. 4-119. Number of animals allowed.

(a) *Limitations.* No person or household shall own, harbor or keep more than a combined total of four dogs, cats or any combination thereof over the age of three months without, multiple animal site permit, or shelter permit.

(b) *Multiple animal permit.*

(1) A household may have up to six dogs, cats or any combination thereof, provided that all of the animals shall be sterilized without a multiple animal permit or shelter permit.

(2) For number of animal purposes in this subsection, a medical waiver certificate may be acceptable in cases when the sterilization of an animal would pose a substantial threat to the health of the animal. The certificate shall be on official letterhead from a licensed veterinarian and shall contain the name and address of the owner of the animal, a description of the animal, the medical condition prohibiting sterilization, and the date upon which the animal may be sterilized. A medical waiver certificate must be resubmitted annually. This does not waive the unsterilized license fee.

(Ord. of 2-26-2013; Ord. No. 185, § 6-42, 6-22-2020)

Sec. 4-120. Restraint of animals.

A person owning or having charge, custody, care, or control over a companion animal, shall keep the animal upon his or her own premises within a secure enclosed pen, or in an area containing a fence or wall of sufficient height surrounding the perimeter of the property. It shall be unlawful to tether a companion animal as a form of confinement.

(1) Fixed point tethering of any companion animal to stationary objects is permitted in limited circumstances such as picnics or gatherings in a park or open space, for emergency purposes to permit an individual to render aid to a human or another animal and only when the owner is immediately present.

- (2) A dog is permitted on the street and in other public places only if on a secure leash not exceeding six feet in length. Longer retractable leashes may be used, provided the person with the dog is capable of controlling the dog. All other animals must be secured in a fashion acceptable for the species of animal. A person physically capable of controlling and restraining the animal must exercise immediate custody. This section does not apply when an animal is participating in a bona fide animal show authorized by the county or appropriate authorities, nor when a dog is in an off-leash park or other designated off-leash area.

(Ord. of 2-26-2013; Ord. No. 185, § 6-43, 6-22-2020)

State law references—Authority to prohibit the running at large of animals, NMSA 1978, §§ 4-37-1, 3-18-3(A)(2), 77-1-12; Dangerous Dog Act, NMSA 1978, §§ 77-1A-1—77-1A-6.

Sec. 4-121. Abandonment.

It is unlawful for a person to abandon an animal. Abandonment does not apply to the trap, neuter and return (TNR) of feral cats. A person or organization managing unowned cats by trap, neuter and return is not deemed the owner, harborer, keeper, holder or possessor of such cats.

(Ord. No. 185, § 6-45, 6-22-2020)

Sec. 4-122. Admission of qualified assistance animals to public places.

Notwithstanding any other provision of law, a qualified assistance animal shall be admitted to any building open to the public and to all public accommodations such as restaurants, hotels, hospitals, swimming pools, stores, common carriers and theaters, provided that the qualified assistance animal is under the control of a person with a disability or a trainer of assistance animals. No person shall be required to pay any additional charges for his qualified assistance animal but shall be liable for any damage done by his qualified assistance animal.

(Ord. of 2-26-2013; Ord. No. 185, § 6-46, 6-22-2020)

State law reference—Similar provisions, NMSA 1978, §§ 28-11-2—28-11-4.

Sec. 4-123. Animals disturbing the peace.

(a) It is unlawful for a person to allow an animal to persistently or continuously bark, howl or make noise common to their species or otherwise disturb the peace and quiet of inhabitants of the county.

(b) It is unlawful to keep or maintain an animal in such an unclean or unsanitary manner that it disturbs others by noxious or offensive odors.

(Ord. of 2-26-2013; Ord. No. 185, § 6-47, 6-22-2020)

Sec. 4-124. Animals killing or injuring livestock or protected wildlife.

(a) It is unlawful for a person to keep an animal known to have killed or injured livestock or protected wildlife. The owner has a duty to destroy said animal humanely or surrender such an animal to the animal care services department for proper humane euthanization upon the order of the court.

(b) An owner of livestock shall have the right to kill an animal that has injured or killed livestock or protected wildlife while it is upon property controlled by the owner of the livestock.

(Ord. of 2-26-2013; Ord. No. 185, § 6-48, 6-22-2020)

State law reference—Dogs killing or injuring livestock, NMSA 1978, § 77-1-2.

Sec. 4-125. Animal poisoning.

(a) It is unlawful for a person to make accessible to any animal, with the intent to cause harm or death, any substance which has been treated or prepared with a harmful poisonous substance.

(b) This section does not apply to placement of such substance in order to control vermin of significance to the public health.

(Ord. of 2-26-2013; Ord. No. 185, § 6-50, 6-22-2020)

Sec. 4-126. Animals running at large.

(a) It is unlawful for a person to allow or permit any animal to run at large in or on any alley, street, sidewalk, vacant lot, public property, other unenclosed place in the county, or private property without the permission of the property owner.

(b) An animal permitted to run at large in violation of this section is declared to be a nuisance and a menace to the public health and safety. Such animal may be taken up and impounded. An animal care services officer may go upon private property in pursuit of an animal which is running at large unless permission to make such pursuit is explicitly refused by the occupant. An officer may not enter a private building or residence in pursuit of an animal.

(c) A working dog performing such acts as herding or search and rescue that is under the control and supervision of the owner or handler shall not be considered as unleashed while performing its duties. A hunting, obedience, tracking or show dog that is under the control and supervision of the owner or handler shall not be considered as unleashed while performing in those capacities.

(d) It is unlawful for an owner, manager, agent, or governing board of any multiple dwelling unit, including mobile home parks and gated communities, to permit any animal to run at large upon the common areas of the multiple dwelling unit.

(Ord. of 2-26-2013; Ord. No. 185, § 6-51, 6-22-2020)

Sec. 4-127. Injury to animals by motorists.

Every operator of a motor or self-propelled vehicle upon the streets and ways of the county shall immediately upon injuring, striking, maiming or running down any animal provide immediate notification to the county manager, furnishing sufficient facts relative to the incident. Such animal shall be deemed an uncared for animal within the meaning of section 4-185(e). Emergency vehicles are excluded from this provision.

(Ord. of 2-26-2013; Ord. No. 185, § 6-52, 6-22-2020)

Sec. 4-128. Animals transported in vehicles.

(a) It is unlawful for a person to carry an animal in or upon any vehicle in a cruel, inhumane, or unsafe manner. Animals carried in the open bed of a truck must be in a crate that is securely fastened to the truck.

(b) If an animal care services officer determines that an animal in a closed vehicle is in immediate danger of serious injury or death, the officer may enter the vehicle, by whatever means necessary, and impound the animal into protective custody.

(Ord. of 2-26-2013; Ord. No. 185, § 6-53, 6-22-2020)

Sec. 4-129. Animal waste.

It is unlawful to permit a companion animal to defecate on public or private property other than the property of the owner of the animal unless such animal waste is immediately removed and properly disposed of by the person having custody of the animal.

(Ord. of 2-26-2013; Ord. No. 185, § 6-54, 6-22-2020)

Sec. 4-130. Breaking into animal care services facilities or vehicles.

It is unlawful for a person to break into any animal center, facility, or vehicle wherein animals are impounded, or to in any manner remove or assist in the removal of any animal or equipment from such.

(Ord. of 2-26-2013; Ord. No. 185, § 6-55, 6-22-2020)

Sec. 4-131. Care and maintenance of companion animals.

Every person who owns or who has charge, care or custody of an animal shall comply with each of the following requirements:

- (1) Each animal shall be supplied adequate food, adequate water accessible and adequate space to prevent overcrowding.
- (2) All animals are to be provided adequate living area and adequate space to prevent overcrowding and sufficient space for adequate exercise. All areas where an animal is confined and all animal buildings or enclosures shall be maintained in a clean and sanitary condition.
- (3) No animal shall be left unattended for more than 24 hours.
- (4) No condition shall be maintained or permitted that is or could be injurious to the animal.
- (5) No owner or custodian shall fail to provide necessary grooming of the coat in order to prevent matting, skin irritation, distress or pain, trapping of fecal matter, and loss of the ability to protect the animal from adverse weather conditions. An animal shall not be so dirty that it becomes matted as to provide a home for parasites and insects. No animal shall be allowed to have a foreign object embedded in its hide, fur or skin other than a microchip or a medical device implanted by a licensed veterinarian.
- (6) The owner or custodian shall provide regular basic, necessary, and emergency professional veterinary care when needed. The owner or custodian shall take an animal to a licensed

veterinarian within a time frame indicated for an examination and adhere to recommended treatment if the director or his agent finds this is necessary in order to maintain the health of the animal, and so orders.

- (7) All animals kept outdoors shall be provided with adequate shelter, accessible at all times, to the animal.

(Ord. of 2-26-2013; Ord. No. 185, § 6-56A, 6-22-2020)

Sec. 4-132. Care and maintenance of livestock.

Every person who owns or who has charge, care or custody of an animal defined under this chapter as livestock shall comply with each of the following requirements:

- (1) Each animal shall be supplied an adequate living area, adequate food, adequate water accessible and adequate space to prevent overcrowding.
- (2) All areas where an animal is confined and all animal buildings or enclosures shall be maintained in a clean and sanitary condition.
- (3) No animal shall be without attention for more than 24 hours.
- (4) No condition shall be maintained or permitted that is or could be injurious to the animal.
- (5) The owner/responsible party shall provide regular basic, necessary, and emergency professional veterinary care and dental or hoof care when needed. The owner or custodian shall take an animal to a licensed veterinarian within the time frame indicated for an examination and adhere to recommended treatment if the director or his agent finds this is necessary in order to maintain the health of the animal, and so orders.
- (6) All livestock primarily confined to one acre or less shall be provided with adequate shelter.
- (7) During the spring and summer, animals shall have easy access to sufficient shade to comfortably include all animals present.
- (8) Housing facilities for animals shall be structurally sound and shall be maintained in good repair to protect the animals from injury.

(Ord. of 2-26-2013; Ord. No. 185, § 6-56B, 6-22-2020)

Sec. 4-133. Confinement of female dogs or cats in mating season.

(a) A person in control of a female dog or cat in mating season shall confine such dog or cat so as to prevent other dogs or cats from attacking or being attracted to such female animal, except for intentional breeding purposes.

(b) It shall be unlawful to maintain a female dog or cat in mating season in any manner that creates a public nuisance.

(Ord. of 2-26-2013; Ord. No. 185, § 6-57, 6-22-2020)

Sec. 4-134. Cruelty to animals.

(a) It is unlawful for a person to recklessly, willfully, negligently or maliciously kill, maim, disfigure or torture; beat with a stick, chain, club or other object; mutilate, burn or scald with any substance, overwork, torment, harass or otherwise cruelly set upon any animal, except that reasonable force may be used to drive off vicious, dangerous or trespassing animals.

(b) It is unlawful for a person to fail to provide necessary sustenance, fail to provide necessary basic or emergency medical care, maintain an animal in an enclosed environment without adequate provisions to prevent pain or suffering, and perform procedures such as ear-cropping, de-barking, tail docking on an animal, or otherwise endanger an animal's well-being. Procedures completed by a licensed veterinarian in accordance to their standard practices shall not be considered cruelty.

(Ord. of 2-26-2013; Ord. No. 185, § 6-58, 6-22-2020)

Sec. 4-135. Fights.

(a) It is unlawful for a person to promote, stage, hold, manage, conduct, carry on or attend any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal.

- (1) It is unlawful for any person to sell, receive, possess, transport, loan, or give away any animal fighting paraphernalia.
- (2) It is unlawful for any person to raise, train, condition, sell, receive, possess, transport, loan, or give away animals for fighting purposes whether or not the fight is to be conducted inside or outside the jurisdiction of the county.
- (3) No person shall provoke or entice an animal from the property of its owner for the purpose of engaging the animal in an animal fight.

(b) Nothing in this section shall prohibit a person from engaging in legal hunting practices as allowed by state wildlife authorities.

(Ord. of 2-26-2013; Ord. No. 185, § 6-59, 6-22-2020)

State law reference—Dog fighting and cockfighting, NMSA 1978, § 30-18-9.

Sec. 4-136. Fowl; impounding or crating.

It is unlawful for a person to confine any wild or domestic fowl or birds unless provisions are made by such person for the proper feeding and the furnishing of water to such fowl or birds at intervals not longer than 12 hours. No person shall impound wild or domestic fowl or birds in a crate, box or other enclosure unless such fowl or bird is in a natural erect position unless such position causes injury or damage to the fowl or bird.

(Ord. of 2-26-2013; Ord. No. 185, § 6-60, 6-22-2020)

Sec. 4-137. Hobbling.

(a) It is unlawful for any person to hobble, tether, or stake livestock or other animals by any means which may cause injury or damage to said animal.

(b) It is unlawful for any person to hobble, tether, or stake livestock or other animals so that they become entangled or are prevented access to any and all care and maintenance items required by section 4-134.

(Ord. of 2-26-2013; Ord. No. 185, § 6-61, 6-22-2020)

Sec. 4-138. Keeping a seriously sick or injured animal.

(a) It is unlawful for a person to have, keep or harbor an animal which is seriously sick or injured, including starvation, without providing proper veterinary care.

(b) The county manager may require the owner to provide a letter of health evaluation from a licensed veterinarian describing the condition of the animal and the treatment provided. The animal care services department may utilize a standard body scoring system to evaluate the condition of an animal.

(c) In the absence of proper veterinary care, the county manager may impound such a seriously sick or injured animal in accordance with the provisions of this chapter.

(d) Any such animal impounded may be destroyed humanely or otherwise disposed of according to the normal procedures of the impound facility as soon thereafter as is conveniently possible.

(Ord. of 2-26-2013; Ord. No. 185, § 6-63, 6-22-2020)

Sec. 4-139. Sale and display of animals.

(a) A person shall only sell, offer for sale, barter, give away or otherwise dispose of an animal at the physical address listed on the appropriate permit issued by the county manager. Shelters shall be allowed off-site adoption events, with permission of site owner and while preserving appropriate care and maintenance of animals.

(b) No person shall offer for sale, sell, barter or give away turtles except in conformance with the appropriate federal regulations.

(c) No person shall offer an animal as a prize, giveaway or award for a contest, game, sport or as an incentive to purchase merchandise.

(d) Animal exhibits.

(1) No person shall operate, conduct, or maintain a permanent or temporary commercial animal show, circus, animal exhibition, animal ride, petting zoo or carnival without first having obtained a permit from the animal care services department. Conditions for permit approval include provisions for the humane care and treatment of the animals and the protection of public safety. Permits shall not be issued upon verification that the applicant has been convicted of charges of animal cruelty, abuse, or neglect, or has violated the Federal Animal Welfare Act.

(2) No person shall operate, conduct or maintain any animal exhibit under conditions that pose a danger to the public or the animals. Specific requirements shall be available upon request to the animal care services department.

(3) The following are exempt from the requirements of this section:

a. Individuals or groups holding a state regulated permit or a federally regulated permit.

- b. Events sponsored by a municipal zoo or aquarium facility.
 - c. Competitive sporting events.
- (4) Persons involved in these exempt activities shall comply with all other applicable sections of this chapter.

(e) Sale of live companion animals at pet shops is prohibited unless the pet shop has an approved professional animal site permit. Sale of cats or dogs in pet shops is prohibited.

(f) The sale of rabbits for purposes other than as a companion animal, which are not otherwise prohibited under this chapter, is allowed. There shall be a seasonal exception for the sale of live rabbits in all pet shops, feed stores, and bait shops during the months of March and April.
(Ord. of 2-26-2013; Ord. No. 185, § 6-64, 6-22-2020)

Sec. 4-140. Sterilization agreements/contracts.

It shall be unlawful for a person to possess any unsterilized animal when such animal is required to be sterilized under the terms of any applicable sterilization agreement or contract.
(Ord. of 2-26-2013; Ord. No. 185, § 6-65, 6-22-2020)

Sec. 4-141. Unlawful use of rabies tag.

It is unlawful for any person to remove or transfer any rabies tag from one animal to another. It is unlawful for any person to manufacture or cause to be manufactured or to have in his possession or under his control a stolen, counterfeit or forged animal license tag, rabies tag, vaccination certificate or other form of licensing or permitting required under this chapter.
(Ord. of 2-26-2013; Ord. No. 185, § 6-66, 6-22-2020)

Sec. 4-142. Vicious or dangerous animals.

(a) It is unlawful for any person to keep or harbor a vicious animal. When an animal care services officer has probable cause to believe that an animal is vicious, the officer may take up and impound the animal into protective custody awaiting appropriate court proceedings. Following judicial determination that an animal is vicious, the court having jurisdiction over the enforcement of this chapter, shall, in addition to any fine or imprisonment imposed for violation of this section, order the owner or keeper of such vicious animal to destroy it humanely or turn such animal over to the county manager or for destruction.

(b) It shall be unlawful to maintain a dangerous animal in a manner which constitutes a threat to any person or other animal.

(c) Any dog that is deemed dangerous by admission of owner or by court determination shall register the dog with animal care services by obtaining a dangerous dog permit. The owner shall comply with all registration and handling requirements as listed in the NMSA 1978, § 77-1A-5.
(Ord. of 2-26-2013; Ord. No. 185, § 6-67, 6-22-2020)

State law reference—Vicious animals, NMSA 1978, § 77-1-10.

Secs. 4-143—4-167. Reserved.

ARTICLE IV. WILD AND HYBRID ANIMALS**Sec. 4-168. Retention of strays or owner-surrendered animals.**

No person shall, without the knowledge and consent of the owner, hold or retain possession of any animal for more than 24 hours without first reporting the possession of the animal to the animal care services department.

- (1) The report shall contain the person's name and address, a true and complete statement of the circumstances under which he took up the animal, and the precise location where the animal is confined.
- (2) No person having such an animal in his possession shall refuse to immediately surrender the animal to an animal care services officer upon demand.
- (3) Any stray animal identified by microchip or any other identification must be called into the animal care services department.

(Ord. of 2-26-2013; Ord. No. 185, § 6-38, 6-22-2020)

Sec. 4-169. County animal care services facilities.

(a) There are established one or more county animal care services facilities which shall be located in such numbers and at such sites as shall be designated by the board of county commissioners.

(b) The animal care services facilities shall be operated to provide service to the general public during the hours set by the county manager.

(c) Waivers shall be granted by notice to the applicant and may include all necessary conditions, including time limits on the permitted activity. The waiver shall not become effective until all conditions are agreed to by the applicants. Noncompliance with any condition of the waiver shall terminate it and subject the person holding it to those provisions of this chapter.

(d) Any person seeking a waiver shall indicate in his or her application to the county manager the specific reason why he or she should not be required to meet the established ordinance criteria. The applicant shall also include a written statement that he or she has personally contacted all residents of properties within 400 feet of the property in question and none oppose the waiver being requested.

(Ord. of 2-26-2013; Ord. No. 185, § 6-36, 6-22-2020)

Secs. 4-170—4-184. Reserved.**ARTICLE V. ANIMAL CARE SERVICES IMPOUNDMENT PROCEDURES****Sec. 4-185. Impounding animals.**

(a) An animal care services officer may take up and impound in any designated animal care services facility a stray or any animal kept or maintained contrary to the requirements of this chapter.

- (1) The animal may be confined in accordance with the facilities regulations.

- (2) The owner/responsible party shall be responsible for all impound fees, boarding fees, and other costs whether or not the animal is reclaimed.
 - (3) An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of an amount on file in the village offices for the sterilization deposit and impoundment fees imposed by the shelter, and the owner shall sign an agreement stating he will sterilize the animal within 30 days after release or will obtain a breeder permit, intact permit, or its equivalent.
 - (4) Any stray which is not reclaimed or adopted may be humanely destroyed in accordance with the impound facility's regulations.
- (b) An animal care services officer may take up and impound in any designated animal care services facility a stray or any livestock kept or maintained contrary to the requirements of this chapter.
- (1) The owner/responsible party shall be responsible for all reclaim fees, boarding fees, and other costs at time of reclaim.
 - (2) The animal care services department may require inspection of enclosures for livestock and the living conditions of animals kept outdoors prior to reclaim.
 - (3) The county manager is hereby authorized to place for adoption unclaimed livestock that has been impounded by the county and to execute adoption papers to the purchaser at the end of a ten-day waiting period.
 - a. Adoption of large livestock may be done after submitting a sealed bid to the animal care services department.
 - b. Adoption of small livestock may be done after paying an adoption fee to the animal care services department.
- (c) The director shall maintain, for a reasonable period of time or as required by statute, a record of all animals impounded. At least the following information shall be included:
- (1) A complete description of the animal;
 - (2) The manner and date of its acquisition;
 - (3) The date, manner, and place of impoundment;
 - (4) The impoundment number.
- (d) Owners requesting removal of an animal shall be required to sign an owner's release at the time of impoundment.
- (e) If a stray animal is not wearing a current rabies tag and is deemed critically injured or critically ill an animal care services officer may deliver the animal to a licensed veterinarian for euthanization. A report must be filed with the county manager.
- (f) Whenever the county manager finds that any animal is or will be without adequate care because of injury, illness, incarceration or other absence of the owner or person responsible for the care of such animal, the county manager may take up such animal for protective care. The owner of the animal may

reclaim the animal after paying all required fees and costs imposed by the impound facility. If the animal is unclaimed at the end of the protective custody period, the animal may be humanely destroyed or otherwise disposed of by the impound facility.

(Ord. of 2-26-2013; Ord. No. 185, § 6-37, 6-22-2020)

State law reference—Sterilization agreement and sterilization deposit required, NMSA 1978, § 77-1-20.

Sec. 4-186. Seizure of animals, excluding livestock.

(a) A peace officer or animal care services officer who reasonably believes that the life or health of an animal is endangered due to violation of any provision in this chapter may apply to the district court, magistrate court, or the metropolitan court for a warrant to seize the animal.

(b) If the court finds probable cause that the animal's life or health is endangered as a result of the violation of any provision of this chapter, the court shall issue a warrant for the seizure of the animal. The court shall also schedule a hearing on the matter as expeditiously as possible within 30 days unless the county demonstrates good cause for a later time.

(c) Written notice regarding the time and location of the hearing shall be provided to the owner of the seized animal. The court may order publication of a notice of the hearing in a newspaper closest to the location of the seizure.

(d) If the owner of the animal cannot be determined, a written notice regarding the circumstances of the seizure shall be conspicuously posted where the animal is seized at the time the seizure occurs.

(Ord. of 2-26-2013; Ord. No. 185, § 6-37A, 6-22-2020)

State law reference—Seizure of animals, NMSA 1978, § 30-18-1.1.

Sec. 4-187. Seizure of livestock.

(a) A peace officer or animal care services officer who reasonably believes that the life or health of livestock is endangered because of the violation of any provision in this chapter may apply to district court, magistrate court, or the metropolitan court for a warrant to seize the allegedly endangered livestock.

(b) On a showing of probable cause to believe that the life and health of livestock is endangered as a result of the violations of any provision of this chapter, the court shall issue a warrant and set the matter for hearing as expeditiously as possible within 30 days unless the county demonstrates good cause for a later time. Seizure as authorized by this section shall be restricted to only those livestock allegedly being kept in a manner that their life or health is endangered. The animal care services department shall establish procedures for preserving evidence of violations of this chapter.

(c) The court executing the warrant shall notify the animal care services department, have the livestock impounded, and give written notice to the owner of the livestock of the time and place of the court hearing.

(d) After all interested parties have been given an opportunity to present evidence at the hearing and if the court finds that the owner has endangered life or health of the livestock by violating any provision contained in the chapter, the court shall order the impoundment of the livestock until the resolution of

proceedings for the ordinance violations. If the court does not find that probable cause exists that the owner has violated any provision in this chapter, the court shall order the livestock returned to the owner. (Ord. of 2-26-2013; Ord. No. 185, § 6-37B, 6-22-2020)

State law reference—Livestock code, NMSA 1978, § 77-2-1 et seq.

Secs. 4-188—4-194. Reserved.

ARTICLE VI. WILD ANIMALS; CANINE HYBRIDS

Sec. 4-195. Wild animals.

(a) It shall be unlawful for a person to own, harbor, keep or exhibit on any private or public property in the county any wild animal of a species that in its natural life is dangerous or ferocious. Such animals, though they may be trained and domesticated, remain a danger to others, and include:

- (1) Wolves, foxes, coyotes, dingoes, and other members of the non-domestic canine families.
- (2) Lions, pumas, panthers, mountain lions, wild cats, and other members of the non-domestic feline families.
- (3) All bears (ursidae), including grizzly bears, black bears, brown bears, etc.
- (4) Raccoons (procynnidæ), including eastern raccoon, desert raccoon, ring tailed cat, etc.
- (5) Primates (hominidae), including all non-human great apes other than qualified service animals.
- (6) Skunks.
- (7) Bats.
- (8) Non-indigenous poisonous snakes.
- (9) Alligators, crocodiles, caimans, or poisonous lizards.
- (10) Venomous fish and piranha.
- (11) Elephants (elephantidae).

(b) This section shall not apply to municipal zoos and aquarium facilities, veterinary facilities, or individuals or organizations holding a state regulated permit or a federally regulated permit.

(c) Any person who lawfully holds or keeps a wild animal as defined in this section in the unincorporated areas of the county prior to April 6, 1999, may maintain that individual animal until its death under the following conditions:

- (1) Submission of an application for a wild animal permit to the county within 60 days of the effective date of the ordinance from which this chapter is derived and payment of the annual permit fee.
- (2) Provision of adequate facilities to prevent the animal from escaping, injuring the public, or creating a public nuisance.
- (3) Compliance with all applicable requirements set forth in this chapter.

- (4) No additional wild animals may be added to the premises by acquisition or breeding as of April 6, 1999.

(Ord. of 2-26-2013; Ord. No. 185, § 6-68, 6-22-2020)

State law reference—Predatory wild animals, NMSA 1978, § 77-15-1 et seq.

Sec. 4-196. Canine hybrids.

(a) No person shall purchase, sell, offer for sale, or advertise for sale any animal that is represented to be the offspring, cross, mix, or hybrid of a wolf or coyote.

(b) No person shall possess a canine hybrid without a valid canine hybrid permit. A person may apply for such a permit under the following conditions:

- (1) Submission of a permit application.
- (2) Submission of written proof from a licensed veterinarian that all animals over the age of six months for which a permit is requested have been spayed or neutered.
- (3) All owners of permitted property shall grant reasonable access to permitted premises. Upon presenting proper identification and at a reasonable hour, a representative of the animal care services department shall be allowed access to any permitted premises for the purpose of inspection. Permits may be suspended for failure to comply with the requirements of this chapter, as well as for violation of other applicable laws, regulations, and ordinances.

(4) Payment of the annual permit fee.

(c) Adequate physical enclosure.

- (1) A permit shall not be issued until the applicant provides an adequate physical enclosure that completely and effectively confines all animals to the property of the owner. An animal care services officer shall determine the adequacy of the enclosure.
- (2) A minimum livable area of 400 square feet must be provided for up to two canine hybrids, with an additional 100 square feet per animal for each additional hybrid. An exception to this subpart may be granted if the animal owner submits a written plan of adequate housing and exercise to the animal care services department and such plan is approved by the department.

(d) A canine hybrid permit will not be issued for the ownership of more than four canine hybrids.

(e) Each canine hybrid must be microchipped and wear a collar or harness displaying an identification tag bearing the name, address, and phone number of the owner at all times while it is on and off of the owner's premises. While off of the owner's premises the hybrid shall be on a secure leash not more than six feet in length and in the immediate custody of a person physically capable of controlling and restraining the animal.

(f) Nothing in this section shall relieve the holder of a permit from complying with all other applicable sections of this chapter.

(Ord. of 2-26-2013; Ord. No. 185, § 6-69, 6-22-2020)

Chapter 5

RESERVED

Chapter 6

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

Secs. 6-1—6-18. Reserved.

Article II. Administration

Division 1. Generally

Secs. 6-19—6-39. Reserved.

Division 2. Permit

Sec. 6-40. Compliance with comprehensive zoning required.

Secs. 6-41—6-70. Reserved.

Article III. Building Code and Standards

Division 1. Generally

Secs. 6-71—6-98. Reserved.

Division 2. State Building Code

Sec. 6-99. State building code adoption.

Sec. 6-100. Punishment for violation of the code.

Sec. 6-101. Copies to be available and subject to inspection.

Secs. 6-102—6-130. Reserved.

Article IV. Fair Housing

Sec. 6-131. Policy.

Sec. 6-132. Definitions.

Sec. 6-133. Unlawful practice.

Sec. 6-134. Discrimination in the sale or rental of housing.

Sec. 6-135. Discrimination in residential real estate-related transactions.

Sec. 6-136. Discrimination in the provision of brokerage services.

Sec. 6-137. Exemption.

Sec. 6-138. Administration.

Sec. 6-139. Education and conciliation.

Sec. 6-140. General enforcement.

Sec. 6-141. Investigations; subpoenas; giving of evidence.

Sec. 6-142. Enforcement by private persons.

***State law references**—Authority regarding public buildings, building construction, care and rehabilitation, NMSA 1978, § 3-18-4; dangerous buildings, debris, etc., NMSA 1978, § 3-18-5; construction restrictions, NMSA, § 3-18-6.

TIJERAS CODE

- Sec. 6-143. Interference, coercion or intimidation.
- Sec. 6-144. Prevention of intimidation in fair housing cases.

ARTICLE I. IN GENERAL

Secs. 6-1—6-18. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

Secs. 6-19—6-39. Reserved.

DIVISION 2. PERMIT

Sec. 6-40. Compliance with comprehensive zoning required.

No application for building permit shall be approved by the village which is not in compliance with the village comprehensive zoning ordinance, chapter 26, or other applicable village ordinances.
(Ord. No. 19, § IV, 5-15-1979)

Secs. 6-41—6-70. Reserved.

ARTICLE III. BUILDING CODE AND STANDARDS*

DIVISION 1. GENERALLY

Secs. 6-71—6-98. Reserved.

DIVISION 2. STATE BUILDING CODE†

Sec. 6-99. State building code adoption.

There is hereby adopted by the village, so far as it is not in conflict with laws of the state, or rules and regulations of the general construction board of the state, for the purposes of regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, area and maintenance of buildings or structures in the village and for the purposes of providing for the issuance of permits and the collection of fees, that certain code known as the state building code, which was adopted by the general construction board and accepted by the construction industries division, and which is also known as the building code. The village does hereby adopt the

***State law references**—Statewide construction codes, NMSA 1978, § 60-13-1 et seq.; adoption by reference, NMSA 1978, § 3-17-6.

†**State law reference**—Municipal authority to adopt a building code by reference, NMSA 1978, § 3-17-6(A)(3).

above-mentioned code in its entirety, and any amendments or changes thereto, including any and all new editions thereof, and the same is hereby adopted and incorporated as fully as if set out verbatim herein. (Ord. No. 19, § I, 5-15-1979)

Sec. 6-100. Punishment for violation of the code.

Any person violating or failing, neglecting or otherwise refusing to comply with the provisions of the state building code shall be punished by a fine of not less than \$5.00 nor more than \$500.00 or by imprisonment for a term of not less than five days nor more than 90 days. Every day any violation of said code shall continue shall constitute, except where otherwise provided, a separate offense. (Ord. No. 19, § II, 5-15-1979)

Sec. 6-101. Copies to be available and subject to inspection.

One or more copies of the state building code, adopted in section 6-99, shall be available and subject to inspection at all reasonable times in the office of the village clerk. (Ord. No. 19, § III, 5-15-1979)

Secs. 6-102—6-130. Reserved.

ARTICLE IV. FAIR HOUSING*

Sec. 6-131. Policy.

It is the policy of the village to provide, within constitutional limitations, for fair housing throughout the village. (Ord. No. 141, § 1, 1-19-2010)

Sec. 6-132. 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:

Aggrieved person includes any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that they will be injured by a discriminatory housing practice that is about to occur.

Chief elected official means the person who holds the highest elected position of the local unit of government and who is signatory to the Small Cities Community Development Block Grant agreement with the Local Government Division.

Complainant means the person (including the chief elected official) who files a complaint under section 6-140.

Discriminatory housing practice means an act that is unlawful under section 6-134, 6-135 or 6-136.

***State law reference**—Discrimination in housing, NMSA 1978, § 28-1-7 et seq.

Dwelling means any building, structure or portion thereof which is occupied as, designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Familial status means one or more individuals (who have not attained the age of 18 years) being domiciled with:

- (1) A parent or another person having legal custody of such individual; or
- (2) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Family includes a single individual.

Handicap means, with respect to a person:

- (1) A physical or mental impairment which substantially limits one or more of such person's major life activities;
- (2) A record of having such an impairment; or
- (3) Being regarded as having such an impairment, but the term "handicap" does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the Controlled Substances Act (21 USC 802).

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

Respondent means:

- (1) The person or other entity accused in a complaint of an unfair housing practice; and
- (2) Any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 6-140.

To rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises.

(Ord. No. 141, § 2, 1-19-2010)

Sec. 6-133. Unlawful practice.

(a) Subject to the provisions of subsection (b) of this section and section 6-137, the prohibitions against discrimination in the sale or rental of housing set forth in this section shall apply to all dwellings except as exempted by subsection (b) of this section.

(b) Nothing in section 6-134 shall apply to:

- (1) Any single-family house sold or rented by an owner; provided that such private individual owner does not own more than three such single-family houses at any one time; provided, further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale, or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period; provided, further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; provided further, that the sale or rental of any such single-family house shall be excepted from the application of this article only if such house is sold or rented:
 - a. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson or person; and
 - b. Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of section 6-134(3), but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.
- (2) Rooms or units in dwellings contained living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as their residence.

(c) For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

- (1) They have, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;
- (2) They have, within the preceding 12 months, participated as agent, other than in the sale of their own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or
- (3) They are the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Ord. No. 141, § 3, 1-19-2010)

Sec. 6-134. Discrimination in the sale or rental of housing.

As made applicable by section 6-133 and except as exempted by sections 6-133(b) and 6-137, it shall be unlawful:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.

- (2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.
 - (3) To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.
 - (4) To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
 - (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, sex, handicap, familial status or national origin.
- (Ord. No. 141, § 4, 1-19-2010)

Sec. 6-135. Discrimination in residential real estate-related transactions.

(a) *Generally.* It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status or national origin.

(b) *Definition.* As used in this section, the term "residential real estate-related transaction" means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - b. Secured by residential real estate.
- (2) The selling, brokering or appraising of residential real property.

(c) *Appraisal exemption.* Nothing in this article prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, handicap, familial status or national origin.

(Ord. No. 141, § 5, 1-19-2010)

Sec. 6-136. Discrimination in the provision of brokerage services.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against them in the terms or conditions of such access, membership or participation because of race, color, religion, sex, handicap, familial status or national origin.

(Ord. No. 141, § 6, 1-19-2010)

Sec. 6-137. Exemption.

Nothing in this article shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by, or in conjunction with, a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or handicap. Nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(Ord. No. 141, § 7, 1-19-2010)

Sec. 6-138. Administration.

(a) The authority and responsibility for administering this article shall be in the chief elected official of the village.

(b) The chief elected official may delegate any of these functions, duties and powers to employees of the village or to boards of such employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining ordering, certifying, reporting or otherwise acting as to any work, business or matter under this article. The chief elected official shall by rule prescribe such rights of appeal from the decisions of the official's hearing examiners, to other hearing examiners or to other offices in the village, to boards of officers or to themselves, as shall be appropriate and in accordance with law.

(c) All village departments and agencies shall administer their programs and activities relating to housing and community development in a manner affirmatively to further the purposes of this article and shall cooperate with the chief elected official to further such purposes.

(Ord. No. 141, § 8, 1-19-2010)

Sec. 6-139. Education and conciliation.

Immediately after the enactment of the ordinance from which this article is derived, the chief elected official shall commence such educational conciliatory activities as will further the purposes of this article. They shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this article and the suggested means of implementing it and shall endeavor with their advice to work out programs of voluntary compliance and enforcement.

(Ord. No. 141, § 9, 1-19-2010)

Sec. 6-140. General enforcement.

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that they will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "aggrieved person") may file a complaint with the chief elected official. Complaints shall be in writing and shall contain such information, and be in such form as the chief elected official requires. Upon receipt of such a complaint, the chief elected official shall furnish a copy of the same to the persons who

have committed, or are about to commit, the alleged discriminatory housing practice. Within 30 days after receiving a complaint or within 30 days after the expiration of any period reference under subsection (c) of this section, the chief elected official shall investigate the complaint and give notice in writing to the aggrieved person whether they intend to resolve it. If the chief elected official decides to resolve the complaints, they shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned. Any employee of the chief elected official who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000.00 or imprisoned not more than one year.

(b) A complaint under subsection (a) of this section shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the chief elected official, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) If within 30 days after a complaint is filed with the chief elected official, the chief elected official has been unable to obtain voluntary compliance with this article, the aggrieved person may, within 30 days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The chief elected official will assist in this filing.

(d) If the chief elected official has been unable to obtain voluntary compliance within 30 days of the complaint, the aggrieved person may, within 30 days thereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this article, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual comes to trial, the chief elected official shall immediately terminate all efforts to obtain voluntary compliance.

(Ord. No. 141, § 10, 1-19-2010)

Sec. 6-141. Investigations; subpoenas; giving of evidence.

(a) In conducting an investigation, the chief elected official shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance or the investigation; provided, however, that the chief elected official first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The chief elected official may issue subpoenas to compel their access to, or the

production of, such materials, or the appearance of such persons and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the district court of the United States for the district in which the investigation is taking place. The chief elected official may administer oaths.

(b) Upon written application to the chief elected official, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chief elected official to the same extent and subject to the same limitations as subpoenas issued by the chief elected official. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at their request.

(c) Witnesses summoned by subpoena of the chief elected official shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the district courts of the United States. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by the respondent.

(d) Within five days after service of a subpoena upon any person, such person may petition the chief elected official to revoke or modify the subpoena. The chief elected official shall grant the petition if they find that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena the chief elected official, or other person at whose request it was issued, may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served or transacts business.

(f) Any person who willfully fails or neglects to attend and testify, or to answer any lawful inquiry, or to produce records, documents or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the chief elected official shall be fined not more than \$1,000.00 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the chief elected official, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the chief elected official pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall be fined not more than \$1,000.00 or imprisoned not more than one year, or both.

(g) The village attorney shall conduct all litigation in which the chief elected official participates as a party or as amicus pursuant to this article.

(Ord. No. 141, § 11, 1-19-2010)

Sec. 6-142. Enforcement by private persons.

(a) The rights granted by sections 6-133, 6-134, 6-135 and 6-136 may be enforced by civil actions in the appropriate United States district, state or local court. A civil action shall be commenced within 180 days after the alleged discriminatory housing practice occurred; provided, however, that the court shall

continue such civil case brought pursuant to this section or section 6-140(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the chief elected official are likely to result in satisfactory settlement of the alleged discriminatory housing practice complained of in the complaint made to the chief elected official and which practice forms the basis for the action in court; and provided, however, that any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this article and involving a bona fide purchaser, encumbrances or tenant without actual notice of the filing of a complaint or civil action under the provisions of this article shall not be affected.

(b) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order and may award to the plaintiff actual damages and not more than \$1,000.00 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff, provided that the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees.

(Ord. No. 141, § 12, 1-19-2010)

Sec. 6-143. Interference, coercion or intimidation.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 6-133, 6-134, 6-135, or 6-136. This section may be enforced by appropriate civil action.

(Ord. No. 141, § 13, 1-19-2010)

Sec. 6-144. Prevention of intimidation in fair housing cases.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

- (1) Any person because of their race, color, religion, sex, handicap, familial status, or national origin and because they are or have been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service organization or facility relating to the business of selling or renting dwellings;
- (2) Any person because they are or have been, or in order to intimidate such person or any other person or any class of persons from:
 - a. Participating, without discrimination because of race, color, religion, sex, handicap, familial status or national origin, or in any of the activities, services organizations, or facilities described in subsection (1) of this section;
 - b. Affording another person or class of persons opportunity or protection so to participate;
or
- (3) Any citizen because they are or have been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status or national origin, in any of the

activities, services, organizations or facilities described in subsection (1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate;

shall be fined not more than \$1,000.00, or imprisoned not more than one year, or both; and if bodily injury results, shall be fined not more than \$10,000.00, or imprisoned not more than ten years, or both; and if death results, shall be subject to imprisonment for any term of years or for life and/or to other applicable local/state/federal laws.

(Ord. No. 141, § 15, 1-19-2010)

Chapter 7

RESERVED

Chapter 8

BUSINESSES AND BUSINESS REGULATIONS*

Article I. In General

Secs. 8-1—8-18. Reserved.

Article II. Business Registration Fee

- Sec. 8-19. Imposition of fees.
- Sec. 8-20. Exemption.
- Sec. 8-21. Application to do business.
- Sec. 8-22. Renewal; due date.
- Sec. 8-23. Failure to renew by due date.
- Sec. 8-24. Enforcement.

*State law reference—Licensing and registration of businesses, etc., NMSA 1978, § 3-38-1 et seq.

ARTICLE I. IN GENERAL

Secs. 8-1—8-18. Reserved.

ARTICLE II. BUSINESS REGISTRATION FEE***Sec. 8-19. Imposition of fees.**

(a) There is imposed on each place of business conducted in this municipality a business registration fee and a fire inspection fee in an amount on file in the village offices. The fee is imposed pursuant to NMSA 1978, § 3-38-3 as it now exists or is amended and shall be known as the "business registration fee." The business registration fee may not be prorated for business conducted for a portion of the year.

(b) The business registration fee covers the administrative costs and fire inspection costs as follows:

(1) Regular business registration fee in an amount on file in the village offices.

(2) Fire inspection fee in an amount on file in the village offices.

(Ord. No. 160, § 1, 1-26-2015)

Sec. 8-20. Exemption.

(a) No business registration fee shall be imposed on any business which is licensed pursuant to NMSA 1978, § 3-38-1.

(b) Home-based businesses that do not require a fire safety inspection will pay a business registration fee in an amount on file in the village offices. If a home-based business does require a fire inspection, the fee is in an amount on file in the village offices.

(Ord. No. 160, § 2, 1-26-2015)

Sec. 8-21. Application to do business.

Any person proposing to engage in business within the municipal limits of the village shall apply for and pay a business registration fee for each outlet, branch or location within the municipal limits of the village prior to engaging in business, unless such person is required to obtain a business license fee under the state. All appropriate licensures will be obtained prior to an application for a village business registration.

(Ord. No. 160, § 3, 1-26-2015; Ord. No. 215, § 1, 8-23-2021)

Sec. 8-22. Renewal; due date.

Prior to 5:00 p.m. on June 1 of each year, any person with a place of business in the village and subject to this article shall apply for renewal of business registration.

(Ord. No. 160, § 4, 1-26-2015)

*State law reference—Authorization for registration of businesses, etc., NMSA 1978, § 3-38-3.

Sec. 8-23. Failure to renew by due date.

Any person who fails to renew the business registration and pay the fee by 5:00 p.m. on June 16 of any year shall be charged an additional late fee of \$20.00 and shall not be registered until the original fee and late fee are paid.

(Ord. No. 160, § 5, 1-26-2015)

Sec. 8-24. Enforcement.

The municipality may enforce payment of the business registration fee by filing a charge of violation of this article in municipal court, as well as by any of the other means provided in NMSA 1978, § 3-38-5.

(Ord. No. 160, § 7, 1-26-2015)

State law reference—Licensing businesses, etc., NMSA 1978, § 3-38-1 et seq.

Chapter 9

RESERVED

Chapter 10

ENVIRONMENT

(RESERVED)

Chapter 11

RESERVED

Chapter 12

FIRE PREVENTION AND PROTECTION*

Article I. In General

Secs. 12-1—12-18. Reserved.

Article II. Fire Code and Standards

Sec. 12-19. Adoption of International Fire Code.

Secs. 12-20—12-41. Reserved.

Article III. Fireworks

Division 1. Generally

Secs. 12-42—12-70. Reserved.

Division 2. Sale, Use, Possession

- Sec. 12-71. Title.
- Sec. 12-72. Purpose.
- Sec. 12-73. Definitions.
- Sec. 12-74. Application and permit.
- Sec. 12-75. Display fireworks.
- Sec. 12-76. Restrictions.
- Sec. 12-77. Inspection.
- Sec. 12-78. Permissible fireworks.
- Sec. 12-79. Prohibited fireworks.
- Sec. 12-80. Seizure of fireworks.
- Sec. 12-81. Penalty.
- Secs. 12-82—12-105. Reserved.

Division 3. Use During Severe Drought

- Sec. 12-106. Title.
- Sec. 12-107. Purpose.
- Sec. 12-108. Authority during extreme or severe drought conditions.
- Sec. 12-109. Securing public health, safety, convenience and welfare.
- Sec. 12-110. Issuance of proclamation.
- Sec. 12-111. Prohibited uses—Types of fireworks.
- Sec. 12-112. Prohibited uses—Ground audible devices.
- Sec. 12-113. Areas of restriction.
- Sec. 12-114. Prohibited areas.
- Sec. 12-115. Commercial displays.

***State law references**—General authority relative to fire prevention and protection, NMSA 1978, §§ 4-37-1, 3-18-11; state fire marshal, NMSA 1978, § 59A-52-1 et seq.; local fire prevention regulations, NMSA 1978, § 59A-52-18; fireworks, NMSA 1978, § 60-2C-1 et seq.

ARTICLE I. IN GENERAL

Secs. 12-1—12-18. Reserved.

ARTICLE II. FIRE CODE AND STANDARDS*

Sec. 12-19. Adoption of International Fire Code.

The International Fire Code, 2021 Edition, prepared and published by the International Code Council is in effect and enforced in the village as adopted by the village council as the village fire code. A copy of the fire code is on file in the village offices.

State law reference—Authority to adopt fire code at least as stringent as the state fire code, NMSA 1978, § 3-17-6.

Secs. 12-20—12-41. Reserved.

ARTICLE III. FIREWORKS†**DIVISION 1. GENERALLY**

Secs. 12-42—12-70. Reserved.

DIVISION 2. SALE, USE, POSSESSION

Sec. 12-71. Title.

This division shall be cited as the village fireworks ordinance.
(Ord. No. 165, § 1-1-1, 6-29-2017)

Sec. 12-72. Purpose.

The purpose of this division is to provide for authorization for local enforcement of the New Mexico Fireworks Licensing and Safety Act and to assist in protecting the public health, welfare and safety of the residents of the village.

(Ord. No. 165, § 1-1-2, 6-29-2017)

***State law reference**—Local fire prevention regulations, NMSA 1978, §§ 3-18-11, 59A-52-18.

†**State law reference**—Fireworks, NMSA 1978, § 60-2C-1 et seq.

Sec. 12-73. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aerial shell means a cylindrical or spherical cartridge containing a lift charge, burst charge and effect composition. Upon firing from a reloadable tube, the lift charge is consumed, and the cartridge is expelled into the air.

Aerial shell kit-reloadable tube means a package or kit containing a cardboard, high-density polyethylene or equivalent launching tube and not more than twelve small aerial shells. Each aerial shell is limited to a maximum of 60 grams of total chemical composition, including lift charges, and the maximum diameter of each shell shall not exceed one and three-fourths inches.

Applicant means the person issued a permit and the person responsible to the village as provided for in this division.

Bosque means a cottonwood corridor adjacent to a river.

Chaser means a paper or cardboard tube venting out the fuse end of the tube that contains no more than 20 grams of chemical combustion and travels along the ground, often producing a whistling effect or other noise; an explosive composition not to exceed 50 milligrams may be included to produce a report.

Chemical composition includes all pyrotechnic and explosive composition contained in a fireworks device but does not include inert materials such as clay used for plugs or organic material such as rice hulls used for density control.

Clerk means the municipal clerk of the village.

Cone fountain means a cardboard or heavy paper cone, containing no more than 50 grams of pyrotechnic composition that has the same effect as a cylindrical fountain; and when more than one cone is mounted on a common base, total pyrotechnic composition shall not exceed 200 grams.

Council means the governing body of the village.

Crackling device means a sphere or paper tube that contains no more than 20 grams of pyrotechnic composition that produces a flash of light and a mild, audible crackling effect upon ignition, which effect is not considered to be an explosion; crackling devices are not subject to the 50-milligram limit of firecrackers.

Cylindrical fountain means a cylindrical tube containing not more than 75 grams of pyrotechnic composition that produces a shower of colored sparks and sometimes a whistling effect or smoke; the device may be provided with a spike for insertion into the ground or a wood or plastic base for placing on the ground or a wood or cardboard handle to be handheld; and when more than one tube is mounted on a common base, total pyrotechnic composition shall not exceed 200 grams.

Display distributor means any person, firm or corporation selling display fireworks.

Display fireworks means devices primarily intended for commercial displays that are designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes contain-

ing more than 130 milligrams of explosive composition; aerial shells containing more than 40 grams of chemical composition exclusive of lift charge; and other exhibition display items that exceed the limits for permissible fireworks.

Explosive composition means any chemical compound or mixture, the primary purpose of which is to function by explosion, producing an audible effect in a fireworks device.

Fire chief means the village fire chief or his designated representative.

Firecracker means a small, paper-wrapped or cardboard tube containing no more than 50 milligrams of explosive composition that produces noise and a flash of light, provided that firecrackers used in aerial devices may contain up to 130 milligrams of explosive composition per report.

Fireworks means devices intended to produce a visible or audible effect by combustion, deflagration or detonation and are categorized as "permissible fireworks" or "display fireworks," but the term "fireworks" does not include novelties or theatrical pyrotechnics articles.

Flitter sparkler means a narrow paper tube attached to a stick or wire and filled with no more than five grams of pyrotechnic composition that produces color and sparks upon ignition and the paper at one end of the tube is ignited to make the device function.

Ground spinner means a small, rapidly spinning device containing no more than 20 grams of pyrotechnic composition venting out an orifice usually on the side of the tube that when ignited produces a shower of sparks and color. A ground spinner is similar in operation to wheel but is intended to be placed flat on the ground and ignited.

Helicopter means a tube containing no more than 20 grams of chemical composition with a propeller or blade attached that spins rapidly as it rises into the air with a visible or audible effect sometimes produced at or near the height of flight.

Illuminating torch means a cylindrical tube containing no more than 100 grams of pyrotechnic composition that produces a colored flame upon ignition and may be spiked, based or handheld; and when more than one tube is mounted on a common base, total pyrotechnic composition shall not exceed 200 grams.

Mine means a heavy cardboard or paper tube usually attached to a wooden or plastic base and containing no more than 60 grams of chemical composition plus not more than 20 grams of lift charge per tube that individually expels pellets of pressed pyrotechnic composition that burn with bright color in a star effect, or other devices propelled into the air, and that contains components producing reports containing a maximum 130 milligrams of explosive composition per report; a mine may contain more than one tube, but the tubes must fire in sequence upon ignition of one external fuse and the total chemical composition, including lift charges, of a multiple tube device shall not exceed 200 grams.

Missile-type rocket means a device similar to a stick-type rocket in size, composition and effect that uses fins rather than a stick for guidance and stability and that contains no more than 20 grams of chemical composition.

Multiple tube device means a device that contains more than one cardboard tube and the ignition of one external fuse that causes all of the tubes to function in sequence. The tubes are individually attached

to a wood or plastic base or are dense-packed and are held together by glue, wire, string or other means that securely hold the tubes together during operation. A maximum total weight of 500 grams of pyrotechnic composition shall be permitted, provided that the tubes are securely attached to a wood or plastic base and are separated from each other on the base by a distance of at least one-half inch. The connecting fuses on multiple tube devices shall be fused in sequence so that the tubes fire sequentially rather than all at once.

Novelties means devices containing small amounts of pyrotechnic or explosive composition that produce limited visible or audible effects, including party poppers, snappers, toy smoke devices, snakes, glowworms, sparklers or toy caps, and devices intended to produce unique visual or audible effects that contain sixteen milligrams or less of explosive composition and limited amounts of other pyrotechnic composition, including cigarette loads, trick matches, explosive auto alarms and other trick noisemakers.

Permissible fireworks or consumer fireworks means fireworks legal for sale to and use in the state by the general public that comply with the latest construction, performance, composition and labeling requirements established by the United States Consumer Product Safety Commission and the United States Department of Transportation.

Portable building means any structure, tent, trailer or vehicle which is of temporary nature or design which is used separately or together for the retail sale of fireworks to the general public. Any tent intended for use as a sales location shall comply with rules adopted by the state fire marshal.

Prohibited fireworks means fireworks which are not legal for sale or possession within the village.

Pyrotechnic composition means a chemical mixture that on burning and without explosion produces visible or brilliant displays or bright lights or whistles or motion.

Roman candle means a heavy paper or cardboard tube containing no more than 20 grams of chemical composition that individually expels pellets of pressed pyrotechnic composition that burn with bright color in a star effect.

Shell means a heavy cardboard or paper tube usually attached to a wooden or plastic base and containing no more than 40 grams of chemical composition plus not more than 20 grams of lift charge per tube that individually expels pellets of pressed pyrotechnic composition that burn with bright color in a star effect, or other devices propelled into the air, and that contains components producing reports containing a maximum 130 milligrams of explosive composition per report; a mine may contain more than one tube, but the tubes must fire in sequence upon ignition of one external fuse and the total chemical composition, including lift charges, of a multiple tube device shall not exceed 200 grams.

Statute, for the purposes of this division, refers to the State of New Mexico Fireworks Licensing and Safety Act beginning at NMSA 1978, § 60-2C-1.

Stick-type rocket means a cylindrical tube containing no more than 20 grams of chemical composition with a wooden stick attached for guidance and stability that rises into the air upon ignition and produces a burst of color or sound at or near the height of flight.

Theatrical pyrotechnics article means a pyrotechnic device for professional use in the entertainment industry similar to permissible fireworks or consumer fireworks in chemical composition and construction but not intended and labeled for consumer use.

Toy smoke device means a small plastic or paper item containing no more than 100 grams of pyrotechnic composition that produces white or colored smoke as the primary effect.

Vendor means any person or business engaged in the retail sale of fireworks to the general public.

Wheel means a pyrotechnic device that is made to attach to a post or other surface that revolves, producing a shower of color and sparks and sometimes a whistling effect, and that may have one or more drivers, each of which contains no more than 60 grams of pyrotechnic composition, and the total wheel contains no more than 200 grams total pyrotechnic composition.

Wildlands means lands owned by the governing body of a county or municipality that are designated for public recreational purposes and that are covered wholly or in part by timber, brush or native grass. (Ord. No. 165, § 1-1-3, 6-29-2017)

Sec. 12-74. Application and permit.

(a) All vendors of fireworks within the village must obtain a local fireworks retail sales permit from the clerk. Each sales location within the village shall have a separate permit.

(b) A permit may be issued by the municipality and, upon issuance, shall be valid for one year unless revoked as otherwise provided in this division. Vendors must present, at the time of application for permit, a copy of a written agreement for use, rent or lease of land intended for the vendor's sales location, unless the vendor is located within a permanent structure. Such written agreements for use, rent or lease of land for use as a fireworks sales location shall be signed by the owner, property manager or tenant having authority to execute such documents.

- (1) Vendors and/or businesses shall provide the village with a copy of the state-issued license or permit for the sale of fireworks with the application.
- (2) Vendors who sell fireworks shall pay a permit fee in an amount on file in the village offices except those retail businesses located at permanent locations that possess a current village business registration.
- (3) Vendors are responsible for the applicable municipal gross receipts taxes.
- (4) Portable buildings shall be set back as required for such setbacks as outlined in the regulations in chapter 26.
- (5) No fireworks shall be stored, kept, sold or discharged within 50 feet of any gasoline pump or gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.
- (6) At all places where fireworks are stored, sold or displayed, the words "no smoking" shall be posted in letters at least four inches in height. Smoking, open flames and any ignition source are prohibited within 25 feet of any fireworks stock.

- (7) Original permits must be prominently displayed at each location at all times.
- (8) All fireworks permit holders and licensees shall keep and maintain upon the premises a fire extinguisher bearing an underwriters laboratories incorporated rated capacity of at least five-pound ABC per 500 square feet of space used for fireworks sales or storage.

(Ord. No. 165, § 1-1-4, 6-29-2017)

State law reference—State license or permit required, NMSA 1978, § 60-2C-3.

Sec. 12-75. Display fireworks.

Nothing herein shall prohibit the public display of fireworks, except that any individual association, partnership, corporation, organization, county or municipality, shall secure a permit from the village council where the public display is to be fired. The display fireworks shall be purchased from a distributor or display distributor licensed by the state fire marshal and the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury.

(Ord. No. 165, § 1-1-5, 6-29-2017)

Sec. 12-76. Restrictions.

(a) It is unlawful to offer for sale or to sell any fireworks to children under the age of 16 years or to any intoxicated person.

(b) No fireworks shall be discharged within 150 feet of any fireworks retail sales location.

(c) No person shall ignite any fireworks within a motor vehicle or throw fireworks from a motor vehicle, nor shall any person place or throw any ignited article of fireworks into or at a motor vehicle or at or near any person or group of people.

(d) In addition to the requirements of this division, vendors will comply with all applicable requirements imposed under the Fireworks Licensing and Safety Act.

(Ord. No. 165, § 1-1-6, 6-29-2017)

Sec. 12-77. Inspection.

The fire chief may at any reasonable hour enter and inspect the premises, portable building or any structure temporarily or permanently located at the site designated for the sale, packaging or handling of permissible fireworks and may seize non-permitted fireworks as provided in section 12-80.

(Ord. No. 165, § 1-1-7, 6-29-2017)

Sec. 12-78. Permissible fireworks.

The following ground and hand-held sparkling and smoke devices are permissible fireworks within the municipality:

- (1) Cone fountains;
- (2) Crackling devices;
- (3) Cylindrical fountains;
- (4) Flitter sparklers;

- (5) Ground spinners;
- (6) Illuminating torches;
- (7) Toy smoke devices; and
- (8) Wheels.

(Ord. No. 165, § 1-1-8, 6-29-2017)

State law reference—Limitation on prohibiting permissible fireworks, NMSA 1978, § 60-2C-7(C).

Sec. 12-79. Prohibited fireworks.

It is illegal to possess or to sell or offer to sell any firework prohibited by this division. The following are prohibited fireworks within the municipality:

- (1) Aerial devices:
 - a. Aerial spinners;
 - b. Helicopters;
 - c. Mines;
 - d. Missile-type rockets;
 - e. Roman candles;
 - f. Shells;
 - g. Stick-type rockets;
 - h. Aerial shell spinners; and
 - i. Aerial shell kit-reloadable devices.
- (2) Ground audible devices:
 - a. Chasers; and
 - b. Firecrackers.

(Ord. No. 165, § 1-1-9, 6-29-2017)

Sec. 12-80. Seizure of fireworks.

The fire chief may inspect the fireworks stands for conformance to sections 12-78 and 12-79.

- (1) The fire chief shall seize, take, remove or cause to be removed at the expense of the permit holder all stocks of fireworks offered or exposed for sale in violation of section 12-79.
- (2) The fire chief shall seize, take, remove or cause to be removed at the expense of the person in possession, all fireworks possessed by the person in violation of section 12-79.

(Ord. No. 165, § 1-1-10, 6-29-2017)

Sec. 12-81. Penalty.

(a) Any individual, firm, partnership or corporation that violates any provision of this division is guilty of a petty misdemeanor and upon conviction shall be punished by a fine of not more than \$500.00 or imprisonment for a period of not more than 90 days or both fine and imprisonment.

(b) In addition to any other criminal penalties that may be imposed, any individual, firm, partnership or corporation found guilty by a court of competent jurisdiction of violating this division or the Fireworks Licensing and Safety Act two or more times within a five-year period shall, after notice and hearing, have its permit revoked for a period of one year.

(Ord. No. 165, § 1-1-11, 6-29-2017)

Secs. 12-82—12-105. Reserved.

DIVISION 3. USE DURING SEVERE DROUGHT*

Sec. 12-106. Title.

This division may be referred to as the "Fireworks in Times of Drought Act."

(Ord. No. 111, § 1, 6-9-2003)

Sec. 12-107. Purpose.

This division is intended to preserve and to protect the general health safety and welfare of the village during periods of extreme or severe drought as proclaimed by the council.

(Ord. No. 111, § 2, 6-9-2003)

Sec. 12-108. Authority during extreme or severe drought conditions.

The Fireworks Licensing and Safety Act, NMSA 1978, §§ 60-2C-1 through 60-2C-11, authorizes the council of municipalities to limit and restrict the sale and use of fireworks within the municipal boundaries of the municipality in times of extreme or severe drought. This division is enacted pursuant to authority granted to the council by NMSA 1978, § 60-2C-8.1.

(Ord. No. 111, § 3, 6-9-2003)

Sec. 12-109. Securing public health, safety, convenience and welfare.

This division, being necessary to secure the public health, safety, convenience and welfare, shall be liberally construed to affect its purpose.

(Ord. No. 111, § 4, 6-9-2003)

Sec. 12-110. Issuance of proclamation.

(a) This division is enforceable only if the council issues a proclamation declaring a condition of extreme or severe drought following the procedures established in NMSA 1978, § 60-6C-8.1 and is only enforceable during the period of time in which the proclamation is in force and effect. Any dissolution or suspension of a proclamation serves to stay enforceability of this division and shall not operate as a repeal or suspension of the ordinance.

***State law reference**—Sales restrictions during severe drought conditions, NMSA 1978, § 60-2C-8.1.

(b) This division is in addition to and complimentary with any ordinance concerning aerial devices and ground audible devices adopted in accordance with NMSA 1978, § 60-2C-7 and shall not be constructed as a limitation of the terms of any ordinance concerning aerial devices and ground audible devices adopted pursuant to NMSA 1978, § 60-2C-7.

(Ord. No. 111, § 5, 6-9-2003)

Sec. 12-111. Prohibited uses—Types of fireworks.

The sale and use within the municipal boundaries of the village of missile-type rockets, helicopters, aerial spinners and stick-type rockets is prohibited.

(Ord. No. 111, § 7, 6-9-2003)

Sec. 12-112. Prohibited uses—Ground audible devices.

The sale and use within the municipal boundaries of the village of ground audible devices is prohibited.

(Ord. No. 111, § 8, 6-9-2003)

Sec. 12-113. Areas of restriction.

The use of any permitted fireworks is hereby restricted to areas within the municipal boundaries that are paved or barren or that have a readily accessible source of water for the use by the homeowner or general public.

(Ord. No. 111, § 9, 6-9-2003)

Sec. 12-114. Prohibited areas.

The council, having consulted with the state forester, declares that the use of all fireworks in areas designated by the council as "wildlands" (i.e., lands covered wholly or in part by timber, brush, or native grass) is prohibited.

(Ord. No. 111, § 10, 6-9-2003)

Sec. 12-115. Commercial displays.

The sale or use of means devices primarily intended for commercial displays that are designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes containing more than 130 milligrams of explosive composition; aerial shells containing more than 40 grams of chemical composition exclusive of lift charge; and other exhibition display items that exceed the limits for permissible fireworks within the municipal boundaries of the village is prohibited.

(Ord. No. 111, § 11, 6-9-2003)

Chapter 13

RESERVED

Chapter 14

FLOODS*

Article I. In General

Secs. 14-1—14-18. Reserved.

Article II. Flood Hazard Mitigation

Division 1. Generally

- Sec. 14-19. Statutory authorization.
- Sec. 14-20. Findings of fact.
- Sec. 14-21. Statement of purpose.
- Sec. 14-22. Methods of reducing flood losses.
- Sec. 14-23. Definitions.
- Sec. 14-24. Lands to which this article applies.
- Sec. 14-25. Basis for establishing the areas of special flood hazard.
- Sec. 14-26. Establishment of development permit.
- Sec. 14-27. Compliance.
- Sec. 14-28. Abrogation and greater restrictions.
- Sec. 14-29. Interpretation.
- Sec. 14-30. Warning and disclaimer of liability.
- Secs. 14-31—14-48. Reserved.

Division 2. Administration

- Sec. 14-49. Designation of the floodplain administrator.
- Sec. 14-50. Duties and responsibilities of the floodplain administrator.
- Sec. 14-51. Permit procedures.
- Sec. 14-52. Variance procedures.
- Secs. 14-53—14-77. Reserved.

Division 3. Standards for Flood Hazard Reduction

- Sec. 14-78. General standards.
- Sec. 14-79. Specific standards.
- Sec. 14-80. Standards for subdivision proposals.
- Sec. 14-81. Standards for areas of shallow flooding (AO/AH Zones).
- Sec. 14-82. Floodways.

*State law reference—Flood control, NMSA 1978, § 3-41-1 et seq.

ARTICLE I. IN GENERAL

Secs. 14-1—14-18. Reserved.

ARTICLE II. FLOOD HAZARD MITIGATION**DIVISION 1. GENERALLY****Sec. 14-19. Statutory authorization.**

The legislature of the state has in NMSA 1978, § 3-18-7 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the council of the village does ordain the provisions of this article.

(Ord. No. 152, art. I, § A, 6-11-2012)

Sec. 14-20. Findings of fact.

(a) The flood hazard areas of the village are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Ord. No. 152, art. I, § B, 6-11-2012)

Sec. 14-21. Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

(7) Ensure that potential buyers are notified that property is in a flood area.
(Ord. No. 152, art. I, § C, 6-11-2012)

Sec. 14-22. 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.

(Ord. No. 152, art. I, § D, 6-11-2012)

Sec. 14-23. 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:

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

Area of future conditions flood hazard means the land area that would be inundated by the one percent annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated Zone AO, AH, AR/AO, AR/AH, or VO on a community's 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 flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zone 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 the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. The term "existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

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.
- (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 insurance rate map (FIRM) means an official map of a 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 (FIS). See *Flood elevation study*.

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.

Floodplain or floodprone 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 "floodplain management regulations" describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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.

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 "functionally dependent use" 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 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 or historic places in communities with historic preservation programs that have been certified either:
- a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement 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, the term "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New 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 floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) 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 that 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 slab 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 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 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 "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" 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) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. No. 152, art. 2, 6-11-2012)

Sec. 14-24. Lands to which this article applies.

The article shall apply to all areas of special flood hazard within the jurisdiction of the village.
(Ord. No. 152, art. 3, § A, 6-11-2012)

Sec. 14-25. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Bernalillo County, New Mexico and Incorporated Areas" dated August 16, 2012, with accompanying flood insurance rate maps (FIRMs) dated August 16, 2012, are adopted by reference and declared a part of this article.

(Ord. No. 152, art. 3, § B, 6-11-2012)

Sec. 14-26. Establishment of development permit.

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

(Ord. No. 152, art. 3, § C, 6-11-2012)

Sec. 14-27. Compliance.

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.

(Ord. No. 152, art. 3, § D, 6-11-2012)

Sec. 14-28. 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 restrictions shall prevail.

(Ord. No. 152, art. 3, § E, 6-11-2012)

Sec. 14-29. Interpretation.

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

- (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the village council; and
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (Ord. No. 152, art. 3, § F, 6-11-2012)

Sec. 14-30. 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 hazards 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 community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. 152, art. 3, § G, 6-11-2012)

Secs. 14-31—14-48. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 14-49. Designation of the floodplain administrator.

The floodplain administrator is appointed by the mayor with the approval of the village council and must obtain the associated certification. The floodplain administrator shall administer and implement the provisions of this article and other appropriate sections of 44 CFR (Emergency Management and Assistance—National Flood Insurance Program regulations) pertaining to floodplain management.

(Ord. No. 152, art. 4, § A, 6-11-2012)

Sec. 14-50. Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator 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 application to determine whether 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 adoption of the ordinance from which this article is derived.

- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1344) from which prior approval is required.
- (5) Make the necessary interpretation 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).
- (6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the state department of homeland security and 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 maintained.
- (8) When base flood elevation data has not been provided in accordance with section 14-25, 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)
 - a. When a regulatory floodway has not been designated, 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.
 - b. Under the provisions of 44 CFR chapter 1, section 65.12 of the National Flood Insurance Program (NFIP) regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by section 65.12 of the NFIP regulations.

(Ord. No. 152, art. 4, § B, 6-11-2012)

Sec. 14-51. Permit procedures.

(a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation 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 new and substantially improved structures;
- (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 14-79(2);

- (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - (5) Maintain a record of all such information in accordance with section 14-50(1).
- (b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:
- (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, 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;
 - (8) The necessity to the facility of a waterfront location, where applicable;
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(Ord. No. 152, art. 4, § C, 6-11-2012)

Sec. 14-52. Variance procedures.

- (a) The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this article.
- (b) The appeal board 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 administrator in the enforcement or administration of this article.
- (c) Any person aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- (d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this article.

(f) 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 14-79(2) 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 above and the intent of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of section 14-21.

(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. Showing a 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 local laws or ordinances.

(3) Any application to which 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 a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

- (1) The criteria outlined in subsections (a) through (i) of this section are met; and
- (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. No. 152, art. 4, § D, 6-11-2012)

Secs. 14-53—14-77. Reserved.

DIVISION 3. STANDARDS FOR FLOOD HAZARD REDUCTION

Sec. 14-78. General standards.

In all areas of special flood hazard, 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;
- (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 floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 152, art. 5, § A, 6-11-2012)

Sec. 14-79. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in section 14-25, section 14-50(8), or subsection (3) of this section, the following provisions are required:

- (1) *Residential construction.* New construction and 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 administrator that the standard of this subsection, as proposed in section 14-51(a)(1), is satisfied.
- (2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design,

specifications, and plans for the construction, and shall certify that 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 maintained by the floodplain administrator.

- (3) *Enclosures.* New construction and substantial improvements, within 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.
 - 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. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 - b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:
 1. Outside of a manufactured home park or subdivision;
 2. In a new manufactured home park or subdivision;
 3. In an expansion to an existing manufactured home park or subdivision; or
 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood;
 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 be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of subsection (4) of this section be elevated so that either:
 1. The lowest floor of the manufactured home is at or above the base flood elevation;
 - or

2. 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 be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) *Recreational vehicles.* Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
- a. Be on the site for fewer than 180 consecutive days;
 - b. Be fully licensed and ready for highway use; or
 - c. Meet the permit requirements of section 14-51(1), and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(Ord. No. 152, art. 5, § B, 6-11-2012)

Sec. 14-80. Standards for subdivision proposals.

(a) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with sections 14-20, 14-21, and 14-22.

(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 14-26 and 14-51 and the provisions of this division.

(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 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 14-25 or 14-50(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 utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. No. 152, art. 5, § C, 6-11-2012)

Sec. 14-81. Standards for areas of shallow flooding (AO/AH Zones).

Located within the areas of special flood hazard established in section 14-25 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 flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, 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:
 - a. 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); or
 - b. Together with attendant utility and sanitary facilities, shall be designed so that below the base specified flood depth in an AO Zone, or below the base flood elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 14-51 are satisfied.
- (4) Require within Zone AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. 152, art. 5, § D, 6-11-2012)

Sec. 14-82. Floodways.

Located within areas of special flood hazard established in section 14-25 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:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development 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 encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.
- (3) Under the provisions of 44 CFR chapter 1, section 65.12 of the National Flood Insurance Program (NFIP) regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by section 65.12 of the NFIP regulations.

(Ord. No. 152, art. 5, § E, 6-11-2012)

Chapter 15

RESERVED

Chapter 16

STREETS, ROADS, SIDEWALKS AND OTHER PUBLIC PLACES

Article I. In General

Secs. 16-1—16-18. Reserved.

Article II. Streets and Roads

Division 1. Generally

Secs. 16-19—16-39. Reserved.

Division 2. Naming

- Sec. 16-40. Approval of road names.
- Sec. 16-41. Changing road names.
- Sec. 16-42. Collaboration with county commissioners.
- Sec. 16-43. Notification of road name change.
- Sec. 16-44. Approval requirements.

ARTICLE I. IN GENERAL

Secs. 16-1—16-18. Reserved.

ARTICLE II. STREETS AND ROADS**DIVISION 1. GENERALLY**

Secs. 16-19—16-39. Reserved.

DIVISION 2. NAMING

Sec. 16-40. Approval of road names.

All existing road names shall be approved, revised, or renamed so as to conform to the village road address map upon adoption of this division. Hereafter, every subdivision plat submitted to the planning and zoning commission of the village shall be in accordance, and shall not conflict, with the road names established by this division.

(Ord. No. 50, § 3(A), 11-13-1990)

Sec. 16-41. Changing road names.

The village council, by resolution, may change or rename any street wholly within the municipal corporate limits of the village at any time after the adoption of this division, following a recommendation by the planning and zoning commission of the village. Any person may apply to the village planning and zoning commission to change the name of a road which lies within the village.

(Ord. No. 50, § 3(B), 11-13-1990)

Sec. 16-42. Collaboration with county commissioners.

Where a road is, or clearly will be, both within and outside the municipal corporate limits of the village, the village council shall confer with the board of county commissioners and seek a mutually satisfactory name or name change.

(Ord. No. 50, § 3(C), 11-13-1990)

Sec. 16-43. Notification of road name change.

Prior to any decision to change the name of a road, the village shall seek to notify all occupants of buildings adjacent to the road proposed for a name change, informing them of the nature of the proposed change and indicating how a person may file comments. At least two weeks shall be allowed for such comments before a decision is reached.

(Ord. No. 50, § 3(D), 11-13-1990)

Sec. 16-44. Approval requirements.

A road name should be changed only if the village council finds that there will be a public benefit which clearly outweighs the public confusion of changing addresses which are in use.

(Ord. No. 50, § 3(E), 11-13-1990)

Chapter 17

RESERVED

Chapter 18

SUBDIVISIONS*

Article I. In General

- Sec. 18-1. Title.
- Sec. 18-2. Authority and jurisdiction.
- Sec. 18-3. Purpose.
- Sec. 18-4. Definitions.
- Sec. 18-5. General information and guidance.
- Sec. 18-6. Character of development.
- Sec. 18-7. Disclosure statement.
- Sec. 18-8. Construction violations.
- Sec. 18-9. Penalties.
- Secs. 18-10—18-32. Reserved.

Article II. Administration

Division 1. Generally

- Sec. 18-33. Amendment procedure.
- Sec. 18-34. Public records.
- Secs. 18-35—18-56. Reserved.

Division 2. Fees and Charges

- Sec. 18-57. Fees.
- Secs. 18-58—18-87. Reserved.

Division 3. Modifications and Exceptions

- Sec. 18-88. Requirement modifications and exceptions.
- Secs. 18-89—18-119. Reserved.

Division 4. Appeals

- Sec. 18-120. Filing procedure.
- Secs. 18-121—18-138. Reserved.

Article III. Plats

Division 1. Generally

- Sec. 18-139. Considerations for good subdivision platting.
- Secs. 18-140—18-161. Reserved.

***State law references**—Planning and platting, NMSA 1978, § 3-19-1 et seq.; subdivisions, NMSA 1978, § 3-20-1 et seq.

TIJERAS CODE

Division 2. Pre-Application

- Sec. 18-162. Pre-application procedure.
- Sec. 18-163. Plans and data for pre-application.
- Secs. 18-164—18-194. Reserved.

Division 3. Preliminary Plat

- Sec. 18-195. Preliminary plat procedure.
- Sec. 18-196. Plans and data for preliminary approval.
- Secs. 18-197—18-215. Reserved.

Division 4. Final Plat

- Sec. 18-216. Final plat procedure.
- Sec. 18-217. Plans and data for final approval.
- Secs. 18-218—18-242. Reserved.

Division 5. Summary Plat Procedure

- Sec. 18-243. Alternate summary process; approval of subdivision plat.
- Secs. 18-244—18-264. Reserved.

Division 6. Vacation of Plat

- Sec. 18-265. Necessity.
- Sec. 18-266. Application procedure.
- Sec. 18-267. Public hearing.
- Sec. 18-268. Recording.
- Secs. 18-269—18-293. Reserved.

Article IV. Required Improvements

- Sec. 18-294. Authorization.
- Sec. 18-295. Installation assurance.
- Sec. 18-296. Installation of improvements.
- Secs. 18-297—18-321. Reserved.

Article V. Design Standards

- Sec. 18-322. Compliance with minimum standards and village policies.
- Sec. 18-323. Drainage.
- Sec. 18-324. Easements.
- Sec. 18-325. Blocks.
- Sec. 18-326. Lots.
- Sec. 18-327. Public sites and open spaces.

ARTICLE I. IN GENERAL**Sec. 18-1. Title.**

This chapter shall be known as "The Subdivision Regulations of the Village of Tijeras."
(Ord. No. 205, § 1, 3-1-2021)

Sec. 18-2. Authority and jurisdiction.

(a) *Authority.* This chapter is created pursuant to enabling legislation NMSA 1978, § 3-19-6.

(b) *Jurisdiction.* This chapter is designed to accomplish the procedures for the processing, consideration, and filing of plats lying within the corporate boundaries of the village and/or within a radius of three miles from the village boundaries, which area is the village planning and platting jurisdiction pursuant to NMSA 1978, §§ 3-19-5 and 3-5-20. No subdivision of any land shall thereafter be affected within the village area of jurisdiction except in accordance with the provisions of these regulations.
(Ord. No. 205, § 2, 3-1-2021)

State law reference—Planning and subdivision regulation authority, NMSA 1978, § 3-19-6.

Sec. 18-3. Purpose.

This chapter is intended to create orderly, harmonious, and economically sound development of land in order to establish conditions favorable to the health, safety, convenience, and general welfare of citizens of the village and its area of jurisdiction. More specifically, provisions of this chapter is designed to achieve adequate provision for light and air, public open spaces, water supply, drainage, sanitation including sewer facilities; economy in governmental expenditures and efficiency in governmental operations; safe convenient circulation of people, goods, and vehicles; accurate and complete surveying, and preparation and recording of plats thereof; safety and suitability of land for contemplated development; and coordination of land development in accordance with orderly physical patterns as stated in official plans, policies, and such ordinances and codes in furtherance of plans and policies as may have been or may be hereafter adopted by the village.

(Ord. No. 205, § 3, 3-1-2021)

Sec. 18-4. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a public thoroughfare which affords only a secondary means of access nonabutting property.

Block means property bounded on one side by a street and on the other sides by a street, railroad right-of-way, waterway, unsubdivided areas, or other definite barriers.

Centerline means the line halfway between the street right-of-way lines.

Cul-de-sac means a short street intersecting another street and terminating in a vehicular turnaround.

Easement means an acquired or granted right of use which one person may have in the land of another.

Engineer means an engineer registered in accordance with the laws of the state and authorized by the village to perform work as necessary.

Future street line means a line, established by the village council, running more or less parallel to the centerline of an existing or proposed street for the purpose of delineating the future boundaries of public right-of-way.

Lot means a tract or parcel of land platted and placed on the county clerk's record in accordance with applicable laws and ordinances, generally as a portion of a subdivision intended for development purposes

Master plan means a comprehensive plan or any of its parts, adopted by the village council, for the physical development of the area within the planning and plat in jurisdiction of the village for the general purpose of guiding and accomplishing coordinated and harmonious development

Monument means one or more of the following:

- (1) *Benchmark* means a brass cap, set in a base which meets village standards, with the elevation (mean sea level datum, 1929) and the land surveyor's registration number inscribed thereon.
- (2) *Permanent survey monument* means a brass cap set in a base which meets village standards, or a standard Bureau of Land Management (B.L.M.) monument marking sectionalized corners, containing coordinates referenced to the state coordinate system and the land surveyor's registration number inscribed thereto.
- (3) *Subdivision control monument* means a metal stake or pipe which meets village standards, with the land surveyor's registration number affixed thereto.

Plat means a map, chart, survey, plan, or replat certified by a registered land surveyor which contains a description of subdivided land with ties to permanent survey monuments, said plat to be placed on record.

Replat means to prepare and record a new plat replacing all or a portion of a previously recorded plat that has been vacated.

Sketch plan means a preliminary sketch drawing of a subdivision plat conforming with the requirements stated herein and used in the pre application procedure prior to submission of the preliminary plat.

Street means property acquired or dedicated to and accepted by the village as right-of-way, other than an alley for the principal means of public access to abutting property. The term "street" includes the following:

- (1) *Arterial street* means a street which is designed and used primarily for serving large volumes of traffic.
- (2) *Collector street* means a street which carries traffic from local streets to arterial streets and highways.

- (3) *Local street* means a street which is primarily for access to abutting properties and carries low volume traffic.

Subdivider means any person creating a subdivision, including the owner, equitable owner, or any authorized representative.

Subdivision.

- (1) The term "subdivision" means:
- a. For the area of land within the corporate boundaries of the municipality, the division of land into two or more parts by platting or by metes and bounds description into tracts for the purposes set forth in this definition; and
 - b. For the area of land within the municipal extraterritorial subdivision and platting jurisdiction, the division of land into two or more parts by platting or by metes and bounds description into tracts of less than five acres in any one calendar year for the following purposes:
 1. Sale for building purposes;
 2. Laying out a municipality or any part thereof;
 3. Adding to a municipality;
 4. Laying out suburban lots; or
 5. Resubdivision.
- (2) The term "subdivision" includes the division of any lot or tract of land into two or more parts for the purpose whether immediate or in the future of sale, lease, or development. Subdivision does not include the following:
- a. Any residual land retained by the subdivider after subdivision, but which has not been divided for subdivision purposes.
 - b. The sale or lease of apartments, offices, stores or similar space within a building.
 - c. Any division of land in which only gas, oil, mineral, or water rights are severed from the surface ownership of the land.
 - d. Any division of land created by court order, except court orders involving land grant adjudications.
 - e. The leasing of land for grazing or farming activities.

Vacation of plat means to formally remove a plat from record as recorded in the office of the county clerk.

(Ord. No. 205, § 5, 3-1-2021)

Sec. 18-5. General information and guidance.

(a) *General compliance.* Every person who desires to subdivide land into two or more parts shall furnish a plat of the proposed subdivision prepared by a surveyor, registered and licensed by the state and shall comply with the requirements of this chapter upon request, the village clerk shall furnish the subdivider with basic information on the requirements.

(b) *Subdivision within corporate limits of the village.* Any proposed subdivision, replat or vacation of plat occurring within the corporate limits of the village shall conform to the requirements of this chapter and shall be submitted for review and approval by the planning and zoning commission and village council prior to filing with the county clerk and before beginning improvement activities or negotiating sale or lease of any lot within the proposed subdivision.

(c) *Subdivision outside corporate limits of the village.* Any proposed subdivision replat, or vacation of plat occurring outside the corporate limits of the village but within the planning and platting jurisdiction of the village shall conform to the requirements of this chapter as well as the provisions of the county land subdivision regulations, and shall be submitted for concurrent review and approval by the village council and the board of county commissioners prior to filing with the county clerk, before beginning improvement activities or negotiating sale or lease of any lot within the proposed subdivision.

(Ord. No. 205, § 6(A)—(C), 3-1-2021)

Sec. 18-6. Character of development.

(a) The planning and zoning commission shall confer with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may agree with the subdivider as to certain minimum restrictions to be placed upon the property:

- (1) To prevent the construction of substandard buildings; and
- (2) To control the type and use of structures and the use of lots which, unless so controlled, would clearly depreciate the character and value of the proposed subdivision and of adjoining property.

(b) The village council shall have power to agree with the subdivider upon the use, height, area, or bulk restrictions governing building and premises, providing that in the case of subdivisions beyond the corporate limits the village council may require the subdivider to conform to the land use plans adopted by the village. Deed restrictions and covenants shall not contain reversionary clauses wherein any lot shall return to the subdivider because of a violation of the terms of the restrictions and covenants.

(Ord. No. 205, § 16, 3-1-2021)

Sec. 18-7. Disclosure statement.

Prior to selling or leasing any land in a subdivision the subdivider must provide a disclosure statement to the prospective purchaser or lease as prescribed by the village (see exhibit A of the ordinance from which this chapter is derived).

(Ord. No. 205, § 19, 3-1-2021)

Sec. 18-8. Construction violations.

Construction which violates any provision of this chapter is strictly prohibited and no building permit shall be authorized, except in those cases where modifications or exceptions have been granted by the village council prior to the start of construction. Violations without authorization by the village council shall bring cause for legal action by the village to have the construction violations stopped, corrected and/or removed, and a penalty assessed.

(Ord. No. 205, § 20, 3-1-2021)

Sec. 18-9. Penalties.

(a) *Transferring lots in unapproved subdivision.* Any owner or agent of the owner, of any land located within the planning and platting jurisdiction of the village, who leases, transfers, sells, agrees to sell, or negotiates to sell land by reference to or exhibition of plat of such land before being duly approved by the village council and duly recorded in the office of the county clerk shall upon conviction be subject to a fine of \$300.00 per offense. Each and every lot or portion thereof so leased, transferred, sold, agreed to be sold, or negotiated to be sold shall be prosecuted and treated as a separate offense. The description by meets and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties.

(b) *Improper recording.* Any person who records with the county clerk any plat in violation of this chapter shall upon conviction be subject to a fine not exceeding the maximum according to state law. (Ord. No. 205, § 22, 3-1-2021)

Secs. 18-10—18-32. Reserved.**ARTICLE II. ADMINISTRATION****DIVISION 1. GENERALLY****Sec. 18-33. Amendment procedure.**

The village council may, from time to time, amend or modify this chapter after public hearing, due notice of which shall be given as required by law. (Ord. No. 205, § 24, 3-1-2021)

Sec. 18-34. Public records.

The village clerk shall keep public records of findings, decisions, and recommendations concerning all subdivision plats filed for review, including such actions as may be taken by the village council through appeals or amendments to this chapter. (Ord. No. 205, § 25, 3-1-2021)

Secs. 18-35—18-56. Reserved.**DIVISION 2. FEES AND CHARGES****Sec. 18-57. Fees.**

(a) *Fee schedule.* A fee schedule shall be passed by the village council by resolution. The most up-to-date fee schedule is on file in the village clerk's office.

(b) *Method of payment.* Fees shall be made payable to the village. All fees shall be paid at the time of the application for approval. Fees are non-refundable, except that plats not approved shall be returned with filing fee to the person submitting the plat.

(Ord. No. 205, § 21, 3-1-2021)

Secs. 18-58—18-87. Reserved.

DIVISION 3. MODIFICATIONS AND EXCEPTIONS

Sec. 18-88. Requirement modifications and exceptions.

Whenever the tract to be subdivided is of such unusual size or shape and/or surrounded by such development or unusual conditions that the strict application of this chapter would result in real difficulties and substantial hardships, the council may vary or modify the requirements, so that the subdivider is allowed to develop his property in a reasonable manner, but at the same time so that the public welfare and interests of the village are protected and the general intent and spirit of this chapter is preserved. However, such relief may not be granted if it is detrimental to the public good or impairs the intent and purpose of this chapter or the desirable development of the community in accordance with plans and policies of the village council. Any modification granted shall be entered in the records of the village council setting forth the reasons which justified the modification. Further, in granting modifications and exceptions, the village council may place conditions which will in its judgement substantially secure the objectives of the standards or requirements involved.

(Ord. No. 205, § 17, 3-1-2021)

Secs. 18-89—18-119. Reserved.

DIVISION 4. APPEALS

Sec. 18-120. Filing procedure.

Any person aggrieved with any determination of the village council acting under this chapter may file an appeal to the district court of the 2nd Judicial District by submitting a written application within 15 days of the village council's decision. The district court may overrule or modify any rule of the village council and make such findings as are not consistent with the provisions of this chapter. Appeals shall be filed with the village clerk, and the district court.

(Ord. No. 205, § 23, 3-1-2021)

Secs. 18-121—18-138. Reserved.

ARTICLE III. PLATS

DIVISION 1. GENERALLY

Sec. 18-139. Considerations for good subdivision platting.

In order to provide guidance to subdividers concerning acceptable proposed plats, the following matters are fundamental:

- (1) *Geographic suitability.*
 - a. With reference to any officially adopted plans of the village, an area shall not be unsuited the purposes for which it is to be subdivided.
 - b. The availability of adequate paved streets, fire protection, police protection, refuse service, public schools, parks and recreation, facilities, and utility services shall all be weighed in considering the subdividing of land. They are not all necessary.
 - c. Land with the following types of problems shall have subdivision approval withheld until it is demonstrated that such hazards have been or will be eliminated:
 1. Special drainage conditions;
 2. Difficult topography;
 3. Soil conditions which are unusually limiting;
 4. Other geographic hazards to life, health, or property.
- (2) *Grading.*
 - a. No subdivider shall proceed with any grading specifically in relation to a proposed subdivision before conditional approval has been given for preliminary plat by the village council. Such grading shall be consistent with the recommendation of an approved draining plan, if any have been required pursuant to this chapter.
 - b. The subdivider shall preserve major trees, scenic points, historic places, and other community landmarks wherever feasible or required.
- (3) *Area plan.*
 - a. If the subdivider owns or controls land contiguous to the land he wishes to subdivide immediately, the village council may require the subdivider to submit a proposed master plan for the total area to be approved or approved in modified form by the village council prior to approval of the preliminary plat. Any plat submitted shall be a reasonable planning unit in relation to the approved area plan. The proposed area plan shall show proposed use type and densities as well as proposed arterial collector and local street alignments.
 - b. If planning and zoning commission finds that the area plan will significantly alter the provisions of any officially adopted plans of the village, it shall make a recommendation to the village council. The village council shall approve it in modified form or reject it.

- c. All proposed street alignments shown in the area plan or any preliminary plat related thereto shall extend, complement, or otherwise conform to existing municipal streets and to officially designated proposed street alignments. Likewise, shall all proposed sewer, water, and drainage systems be made to extend, complement and conform to existing and proposed municipal facilities.

(Ord. No. 205, § 6(D), 3-1-2021)

Secs. 18-140—18-161. Reserved.

DIVISION 2. PRE-APPLICATION

Sec. 18-162. Pre-application procedure.

(a) *Submission.*

- (1) All proposed subdivisions, plats or plat vacations shall comply with the requirements of this chapter. Whenever there is no need for dedication of streets or easements, the village council may waive the requirements for topography, street, utility, and storm drainage as set forth herein. However, submittal of a series of two-lot subdivisions on a tract of land will be considered a subterfuge to defeat the purpose of this chapter and such plats shall not be approved.
- (2) Previous to the filing of an application for approval of the preliminary plat, the subdivider shall submit to the planning and zoning commission a sketch plan and data specified herein. This step does not require formal application, payment of fee, or filing of a plat with the village council.

(b) *Advice.* The pre-application procedure affords the subdivider the opportunity to avail themselves of advice and assistance of the planning and zoning commission early and informally before preparation of the preliminary plat and before formal for its approval. The planning and zoning commission may assist the subdivider in analyzing the development and plan for its sound integration with the village and may give informal guidance to the development at a stage when potential points of difference can be more easily resolved, thus simplifying official actions and saving unnecessary expense and delay to the subdivider. The planning and zoning commission shall not assume any liability for possible lack of understanding on the part of the subdivider.

(c) *Review.* The planning and zoning commission, within 30 working days of sketch plan submittal, shall inform the subdivider whether the sketch plan and data meet the intent of this chapter. If the sketch plan and data do not meet the intent, the planning and zoning commission shall express the reasons therefore and advise the subdivider in bringing the proposed plan into conformance.

(Ord. No. 205, § 7, 3-1-2021)

Sec. 18-163. Plans and data for pre-application.

(a) *Location map.* A location map shall show the relationship of the proposed plat to existing community facilities which serve it; all abutting streets, shopping centers, schools, and parks; and north arrow.

(b) *Sketch plan.* A simple sketch plan on a current topographic survey shall show the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch made directly on a print of the topographic survey.

(c) *Written information.* General plat information shall list the name and address of the subdivider and their agent, if any, the total area of the proposed plat, the area of each proposed use, and a description of the existing conditions of the site and proposed development as necessary to supplement the sketch plan. This information may include data on existing covenants and land characteristics including surface drainage, grading, landfill areas, and available private and municipal utilities. This information may also describe the subdivision proposal, such as the number and typical lot width and depth of residential lots, business area, public areas, and proposed utilities.
(Ord. No. 205, § 8, 3-1-2021)

Secs. 18-164—18-194. Reserved.

DIVISION 3. PRELIMINARY PLAT*

Sec. 18-195. Preliminary plat procedure.

(a) *Application.* Upon reaching a general understanding established by the pre-applicant upon review, the subdivider shall submit to the planning and zoning commission an application on prescribed forms, together with a digital copy of the original preliminary plat, improvement plans and other supplementary material as specified herein. The application package shall be submitted at least ten days prior to the regular meeting of the planning and zoning commission at which the plat is to be presented for review.

State law reference—Submittal of plat for approval, NMSA 1978, § 3-20-7.

(b) *Review.* The planning and zoning commission shall review the required preliminary plat and supplementary material and shall request comments from village staff and other governmental agencies as may be appropriate.

(c) *Annexation and/or rezoning.* If annexation and/or rezoning is proposed or required to accomplish the development envisioned in connection with the plat, the village council shall withhold conditional approval of the preliminary plat until such time as annexation and/or rezoning shall be officially adopted by the village council. The village council shall have a written report available containing its recommendation prior to the public hearing on the annexation or rezoning.

(d) *Decision.*

(1) Following review of the required preliminary plat and other material and following negotiations with the subdivider on changes as may be deemed advisable, the village council shall, within 35 working days of receipt of the application package act thereon as submitted or modified. However, if it is found that any agency other than the staff of the village should be requested to review the submitted materials, the time period within which the village council must act may require reasonable extension. After the last opinion requested of an agency is received, the

***State law reference**—Plats and platting, NMSA 1978, §§ 3-20-3, 3-20-7.

village council shall act on the preliminary plat within 21 working days. If the preliminary plat is approved the village council shall express its conditional approval and state the conditions of such approval, if any. If the plat is disapproved, the village council shall express its disapproval and its reasons, therefor. The action of the village council shall be noted on two copies of the preliminary plat, referenced and attached to any condition determined. One copy shall be returned to the subdivider and the other retained by the village council.

- (2) Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat.

State law reference—Approval of plat, NMSA 1978, § 3-20-7.

(e) *Public hearing.* No plat shall be acted upon without a public hearing. Public notice of an application shall be given in a newspaper of general circulation in the village at least 15 days prior to the day of the hearing. The notice shall be published at the subdivider's expense and shall be published at the proposed subdivision as well as where interested persons may examine the preliminary plat and field comments. Notice of the time and place of the hearing on the preliminary plat shall be sent by certified mail, at the subdividers expense, to the subdivider and all property owners with 150 feet of the proposed subdivision not less than 15 days before the date of the hearing.

(f) *Longevity.* Approval of a preliminary plat is effective for one year unless extended by the village council, based on a finding that the delay has been unavoidable, and that extension is in the public interest.

(Ord. No. 205, § 9, 3-1-2021)

Sec. 18-196. Plans and data for preliminary approval.

(a) *Submittal of preliminary plat.* The subdivider shall submit the original of the preliminary plat to the planning and zoning commission digitally. The preliminary plat shall include all land owned or controlled by the subdivider, which is or may be suitable for or susceptible to subdivision or development, and adjoins the land proposed to be subdivided. The preliminary plat shall be drawn to a scale of one inch to 200 feet for the purpose of showing all details clearly.

(b) *Required information.* The preliminary plat shall contain the following information:

- (1) Name of proposed subdivision, name and address of subdivider and agent; name and certification of registered licensed surveyor and any other principal persons preparing the preliminary plat.
- (2) Scale and north arrow.
- (3) Proposed benchmark locations, proposed location of and method of tie to permanent survey monuments, and proposed location and type of subdivision control monuments. Descriptions of all monuments found or set.
- (4) Plat boundary lines: bearing in degrees, minutes, and seconds, with basis for bearings noted or shown distances in feet and hundredths.

- (5) Existing conditions of the site and its environments including the following:
 - a. Present site designation or subdivision name.
 - b. Easements on site: location, width, and purpose.
 - c. Public right-of-way on and within 150 feet of the site; name, width, type, and dimensions of paving.
 - d. Utilities on and adjacent to the site: location and, if applicable, size of water wells, water reservoirs, water lines, sanitary and storm sewers, location of gas lines, fire hydrants, electric and telephone lines and poles and streets lights.
 - e. Ground elevation on the site based on mean sea level datum as established by the U.S. Coast and Geodetic Survey:
 1. For land that slopes less than one percent, contour lines at intervals of not more than one foot.
 2. For land that slopes between one percent to five percent, contour lines at intervals of not more than two feet.
 3. For land that slopes more than five percent, contour lines at intervals of not more than five feet.
 - f. Existing storm drainage facilities on and adjacent to the site.
 - g. Other significant conditions on the site: major rock outcrops, trees, structures, etc.
 - h. Conditions on adjacent land significantly affect the design of the subdivision: approximate direction and gradients of around slope; character and location of development.
 - i. Zoning on and adjacent to the site.
 - j. Total area of the proposed plat to the nearest one-tenth acre.
- (6) Location map showing location of the site in relation to well-known landmarks, abutting property owners, and municipal boundaries.
- (7) Proposed lot lines and public right-of-way and street widths; indicate roadways intended to be private; locations of planned water wells, reservoirs, and pump stations; locations, dimensions, and purpose of all easements, public or private; rights-of-way for public services or utilities, and any limitations thereof.
- (8) Number or letters to identify each proposed lot and block.
- (9) Locations, dimensions, approximate areas, and purposes of lots proposed to be dedicated or reserved for the public.
- (10) Sites and approximate area for any multifamily dwellings or nonresidential use.
- (11) Proposed changes to ground elevations, to standards specified herein.

(c) *Storm drainage management.* For the purpose of minimizing or eliminating damage resulting from stormwater runoff, the subdivider shall be required to furnish a plan for storm drainage management if the subdivision lies within a designated flood hazard area. Preparation of the drainage plan shall be done by a registered professional engineer and shall include the following information:

- (1) Location of proposed lots, streets, bridges, water and erosion control structures, and utility easements in relation to the existing contours; these shall also be shown in relation to the finished contours proposed to be implemented in the development of the subdivision.
- (2) Storm drainage computations showing the estimated runoff from the subdivision prior to and following completion of development.
- (3) Storm drainage computations on the surrounding areas contributing runoff that may affect the subdivision or may be affected by the subdivision.
- (4) All appropriate design details necessary to clearly explain the construction of all water control structures, utility installations and buildings as they shall be made floodproof to the extent necessary.
- (5) Conformity to the regulations, procedures, and standards as may be prescribed by local, state, or federal laws.

(d) *Soils analysis.* The subdivider shall provide a preliminary soils analysis by a qualified soil scientist to determine the adequacy of the soil for the proposed construction. Subdivisions reviewed by the summary procedure of this chapter may be exempt from this subsection unless the planning and zoning commission determines the analysis to be in the public interest.

(e) *Schedule of development.* The subdivider shall provide an estimated schedule of lot development. In particular, the schedule shall indicate when improvements will be provided.

(f) *Special problems analysis.* For land with difficult topography or other geographic hazards to life, health, or property, a report and proposed solution shall be prepared satisfactory to the planning and zoning commission.

(Ord. No. 205, § 10, 3-1-2021)

Secs. 18-197—18-215. Reserved.

DIVISION 4. FINAL PLAT

Sec. 18-216. Final plat procedure.

(a) *Submission.* Application for approval of the final plat shall be submitted on prescribed forms to the planning and zoning commission at least ten days prior to the meeting at which it is to be considered. An original and two copies of the final plat and other required exhibits shall be submitted to the planning and zoning commission within 12 months following approval of the preliminary plat; otherwise, such approval shall become null and void unless an extension of time has been granted by the village council. The final plat shall conform substantially to the preliminary plat as approved.

(b) *Review.* The planning and zoning commission shall review the final plat and other exhibits submitted for conformity to this chapter and shall ensure that the conditions of the preliminary plat as approved have been met.

(c) *Decision.*

- (1) If the final plat is in the conformance with the preliminary plat as approved and conforms with this chapter, it shall be approved by the village council.
- (2) Should the final plat be disapproved, the village council shall express in writing the reasons for disapproval. The reasons for disapproval shall be referenced and attached to two copies of the final plat. One of said copies shall be returned to the subdivider and the other shall become a part of the files of the village clerk's office.
- (3) Approval or disapproval shall be given within 35 working days of the date of final plat submission, unless the subdivider agrees in writing to a deferral.
- (4) If the final plat is approved by the village council such approval shall be recorded on the face of the original drawing of the final plat and on two copies thereof and shall be dated and verified by the signature of the mayor or designated representative of the village council.

(d) *Recording.*

- (1) The final plat is in full force and effect only after having been duly recorded in the office of the county clerk and copies filed with the village clerk. Approval of the final plat shall become null and void if the plat is not so recorded within six months after the date of approval, unless an extension of time is granted by the village council. Submittal for recording is the subdividers responsibility.
- (2) In the case of a replat, the subdivider shall request the county clerk to mark the origins plat with the words "replatted" or "partially replatted" and refer on the original plat to the filed location of the replat. The village council shall mark the copies of the original plat on file in the offices of the village in a similar manner.
- (3) After having filed the original drawing of the final plat with the county clerk, which copy shall be the official copy, the subdivider shall submit to the village two copies of the final plat as recorded and properly stamped by the county clerk. No building permits shall be issued until copies of the recording of the final plat have been placed on file with the village.

(e) *Replat.* After final approval of any plat, no lot or block shall be further subdivided or the area of any platted lot diminished, and no change shall be made in the platted of any street, alley, or easement established by said plat except upon the filing of a replat, showing such proposed change, or changes, with the village council and securing its approval in accordance with the procedures herein established. The provisions of this subsection shall apply to all proposed replat or changes in lot lines, dimensions of lots, streets, alleys, and easements in a platted area within the village planning and platting jurisdiction.

(f) *Acceptance of land.* Approval of the final plat by the village council shall be deemed to constitute acceptance by the village of dedication of public rights-of-way, other proposed public easements, and public areas shown on the plat, provided the final plat is properly recorded with the county clerk and the village clerk.

(Ord. No. 205, § 11, 3-1-2021)

Sec. 18-217. Plans and data for final approval.

(a) *Submittal of final plat.* the subdivider shall submit the original and two copies of the final plat to the planning and zoning commission for review in accordance with the following provision.

(b) *Size, scale, material.* The final plat shall be on sheets no larger than 24 inches by 36 inches and shall be at a scale of one inch to 200 feet. Enough sheets shall be used to show the subdivision in its entirety, with each sheet numbered in relation to the total number of sheets involved, and each shall have a small key map showing its relationship to the whole. Final plats should be submitted digitally.

(c) *Required information.* The final plat shall contain the following information:

- (1) Name of subdivision.
- (2) Title, scale, north arrow, and date of survey.
- (3) Location and description of all monuments found or set within the plat area, and all these referred to, including benchmarks with elevations shown, and property corners.
- (4) Plat boundary lines: bearing in degrees, minutes, and seconds, with basis for bearings noted or shown; distances in feet and hundredths, or other functional reference system; both the record and measured bearings and distances.
- (5) Reference the plat to the state plane coordinate system. Total acreage of subdivision, to four decimal places.
- (6) Lot lines, and right-of-way lines, existing and proposed; lines to be eliminated shown as dashed lines, Names of streets, right-of-way widths, and centerline data and all streets and alleys, including private streets and alleys. The length, central angle, and radius of all curves.
- (7) Location, dimensions, and proposed of all easements existing or proposed, and any limitations thereof.
- (8) Number or letter to identify each lot and block.
- (9) Location, dimensions, areas, and purposes of lots proposed to be dedicated or reserved for the public.
- (10) Reference to recorded subdivision plats of adjoining platted land by recorded name, date, book, and page number in the office of the county clerk.
- (11) Mileage of streets created:
 - a. Total;
 - b. Full width streets; and
 - c. Half-width streets.

- (12) Certification by the county treasurer or by a duly qualified title company that the previous ten years' property taxes due and payable have been paid in full.
 - (13) Statement that the subdivision is with free consent and in accordance with the desire of the undersigned owner of the land, acknowledged in a manner required for acknowledgement of deeds.
 - (14) Signed statements by the subdivider dedicating public rights-of-way, any sites for public use, and granting the shown easements public use.
 - (15) Certification and seal by a registered land surveyor, in accordance with the laws of the state, certifying the accuracy of the survey and plat, that they prepared or supervised preparation of the plat, that they has shown all easements of record, and that it meets design standards for surveying.
 - (16) Such other certificates, affidavits, endorsements, or dedications as may be required by the village council in the enforcement of this chapter.
- (Ord. No. 205, § 12, 3-1-2021)

Secs. 18-218—18-242. Reserved.

DIVISION 5. SUMMARY PLAT PROCEDURE*

Sec. 18-243. Alternate summary process; approval of subdivision plat.

(a) In accordance with the alternate summary procedures authorized by NMSA 1978, § 3-20-8, the village council may approve a subdivision as combined preliminary and final plat in any case where no public purpose would be served by separate steps. Such summary approval shall be given only when one or both of the following conditions exist:

- (1) The subdivision contains no more than two lots.
- (2) Re-subdivisions, where the combination or recombination or portions or previously platted lots does not increase the total number of lots.

(b) In all cases the subdivision plat being considered for approval under this summary procedure shall be prepared according to the standards for plans and data for both preliminary and final plats as contained herein.

(Ord. No. 205, § 13, 3-1-2021)

Secs. 18-244—18-264. Reserved.

*State law reference—Summary alternate procedure, NMSA 1978, § 3-20-8.

DIVISION 6. VACATION OF PLAT

Sec. 18-265. Necessity.

Nothing in this division requires that vacation be undertaken if a replat, accomplishing the elimination of lot lines, is duly approved. A vacation is required when no replatting is undertaken to eliminate lot lines, rights-of-way, or easement lines dividing a parcel.

(Ord. No. 205, § 18(A), 3-1-2021)

Sec. 18-266. Application procedure.

Any plat filed in the office of the county clerk and within the planning and platting jurisdiction of the village may be vacated according to the following procedures:

- (1) The subdivider of lane proposed to be vacated, exclusive of public rights-of-way, shall sign a duly acknowledged statement declaring the plat or a portion of the plat is to be vacated and shall apply to the village council for approval.
- (2) Where a public right-of-way is proposed to be vacated:
 - a. The village clerk shall mail letters to franchised utilities and to the owner of record of all lots adjacent to the public right-of-way to be vacated informing them of the nature of the proposed vacation, and notifying them of the date, time, and place of the hearing. At least 15 days shall be allowed for such comments before a decision is reached.
 - b. If the public right-of-way proposed for vacation is paved, or if the entire width of the right-of-way is proposed for vacation, the applicant shall post and maintain one or more signs, as provided and where instructed by the village council at least 15 days prior to the date of the hearing. The applicant is responsible for removing such signs within five days after the hearing is completed. Failure to properly post signs is grounds for derail of the request. No one except the applicant, the agent of the applicant, or the village shall remove or tamper with any such required sign during the period it is required to be maintained under this subsection.
 - c. In considering the vacation of all or part of a public right-of-way, the planning and zoning commission shall determine whether or not the vacation will adversely affect the interests of the persons owning contiguous land or land within the subdivision being vacated.
- (3) The rights-of-way of any public or private utility, including drainage, existing prior to the vacation, total or partial, of any plat are not affected by the vacation of a plat unless an authorized representative of the utility involved agrees in writing to have the rights-of-way vacated.

(Ord. No. 205, § 18(B), 3-1-2021)

Sec. 18-267. Public hearing.

A decision on approval and endorsement shall be made at a hearing by the village council. Public notice shall be published in a newspaper at least 15 days before the date of the hearing; the notice shall

indicate the location of the proposed vacation, where a map of the proposed vacation may be viewed and information on the hearing. If approved by the village council, the statement of vacation is endorsed "approved." Such endorsement shall be within ten days of the conclusion of the hearing.
(Ord. No. 205, § 18(C), 3-1-2021)

Sec. 18-268. Recording.

The vacation is in full force and effect only after the approved statement declaring the vacation has been recorded in the office of the county clerk shall be requested to mark the original plat with the words "vacated" or "partially vacated" and refer on the plat to the volume and page on which the statement of vacation is recorded. Submittal for recording is the applicant's responsibility. The applicant shall also provide certified proof of the recording by the county clerk to the village clerk.
(Ord. No. 205, § 18(D), 3-1-2021)

Secs. 18-269—18-293. Reserved.

ARTICLE IV. REQUIRED IMPROVEMENTS

Sec. 18-294. Authorization.

Receipt of the signed copy of the preliminary plat is authorization for the subdivider to proceed with the minimum improvements required by this chapter. Prior to the construction of any improvements or to the submission of any bond, the subdivider shall furnish the village council with all plans and data necessary for the construction of said improvements. These plans shall be examined by the village council and will be approved if in accordance with the following requirements. Following the approval, construction can be started, or the amount of bond determined.
(Ord. No. 205, § 14(A), 3-1-2021)

Sec. 18-295. Installation assurance.

Plans for improvement shall be prepared by an engineer registered in accordance with the laws of the state. The village is to be assured of the installation of these improvements in a satisfactory manner by one or more of the following methods:

- (1) Complete installation of the improvements prior to approval of the final plat.
- (2) Submission of a satisfactory bond, either a performance bond or a cash bond or the establishment of escrow account in an amount and with surety and conditions satisfactory to the village clerk providing for and securing to the village the actual construction and installation of such improvements and utilities within a period not to exceed one year.
- (3) Completion of an approved assessment procedure whereby the village is put in an assured position to do said work and make said installations at the cost of the owners of the property within the subdivision.

- (4) Submission of an approved assessment procedure for the surfacing of streets together with an agreement between the subdivider and the village for a cash payment for other improvements with payment to be made as the work is completed.

(Ord. No. 205, § 14(B), 3-1-2021)

Sec. 18-296. Installation of improvements.

The subdivider may prepare and secure approval of the preliminary plat and then install improvements in the area covered by the preliminary plat. Improvements to be installed only in that part of the area for which a final plat will be submitted for approval and filing. The improvements to be installed shall include the following:

- (1) *Permanent markers.* All subdivision boundary corners, and the four corners of all street intersections shall be marked with permanent monuments. 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. Should conditions prohibit the placing of monuments online, offset marking will be permitted; provided, however, that 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 U.S.G.S. datum and accurately noted on the subdivision plat.
- (2) *Street improvements.* All streets shall be graded, and the roadway improved by the surfacing under the supervision of the engineer, as defined in this chapter, and subject to their approval in accordance with standard specifications of the village.
- (3) *Sidewalks.* Sidewalks may be constructed under the supervision of the engineer and subject to their approval in accordance with standard specifications of the village.
- (4) *Water and sewer.* The subdivider shall present evidence that adequate water and sewer service to each lot will be provided in compliance with the requirements of the state environment department and in conformity to the standard specifications of the village. Construction of all water and sewer lines shall be under the supervision and approval of the engineer.
- (5) *Drainage.* Construction of drainage improvements and other means of stormwater management shall be under the supervision and approval of the engineer.

(Ord. No. 205, § 14(C), 3-1-2021)

Secs. 18-297—18-321. Reserved.

ARTICLE V. DESIGN STANDARDS

Sec. 18-322. Compliance with minimum standards and village policies.

(a) All subdivisions within the village planning and platting jurisdiction shall conform to minimum design standards established by the village.

(b) The character, extent, width, and location of all streets shall conform to any master plan or policies established by the village council and shall be consistent and appropriate in their relationship to existing and planned streets, topographic conditions, public convenience, safety, and the proposed uses of the land to be served by such streets.

- (1) Where an arterial or collector street is not shown or defined in a master plan of the village and there is not an adopted future street line, the arrangement of streets in a subdivision shall either:
 - a. Provide for the continuation or appropriate projection of the existing principal situation where topographic or other conditions make continuance of, or conformance to, existing streets impractical.
 - b. Conform to a plan for the neighborhood properly approved by the village to meet a particular situation where topographic or other continuance of, or conformance to, existing streets is rendered impractical.
- (2) Minor streets shall be so laid out that their use by through traffic will be discouraged.
- (3) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the village council may require a street approximately parallel to such right-of-way. This distance shall be suitable for the appropriate use of the intervening land and shall also be determined with due regard for the requirements of approach grades and future grade separations.
- (4) Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the village under conditions approved by the village council.
- (5) Half streets shall be prohibited, except where used as an addition to another half street which was platted and filed before the effective date of this chapter.
- (6) No street names shall be used which will duplicate or be confused with the names of existing streets within the jurisdiction of the village. Street name changes shall be subject to the approval of the village council upon the recommendation of the planning and zoning commission. A street name shall only be changed if the applicant shows that there will be a public benefit which clearly outweighs the public confusion which would be created by the name change.
- (7) Streets shall be laid out to intersect as nearly as possible at 90-degree angles, and no street shall intersect any other street as less than 60 degrees.
- (8) Street jogs with centerline offsets shall be avoided, but where necessary shall have a minimum offset of 125 feet.
- (9) A minimum tangent 100 feet long shall be introduced between reverse curves on major streets.
- (10) When connecting street lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than 200 feet and of such greater radius as may be set by the village council for special cases.
- (11) Property lines at street intersections shall be rounded with a radius of ten feet, or of greater radius where the village council may deem it necessary. Comparable cut-offs or chords in place round corners may be permitted.

- (12) Dead end streets (culs-de-sac), designed to be so permanently, shall not be longer than 500 feet and shall be proved at the closed end with a turnaround having an outside roadway diameter of at least 100 feet.
- (13) All street gradients shall be subject to approval of the engineer. Minimum street gradient shall not be less than one-half percent, and the maximum, not more than ten percent. Within 100 feet of any intersection the maximum gradient shall be five percent to provide adequate and safe sight distance and the intersection itself shall have a maximum gradient of three percent.
- (14) Streets and alleys shall be provided in accordance with the following minimum standards:

<i>Street Type</i>	<i>Right-of-Way Width</i>	<i>Pavement Width</i>
Arterial	86 feet	48 feet
Collector	60 feet	42 feet
Local	50 feet	32 feet
Alley	20 feet	20 feet
Cul-de-sac	40 feet	30 feet

- (15) All streets shall be graveled or paved in accordance with standard specifications of the village and with the supervision and approval of the engineer.
 - (16) Alleys shall be provided in commercial districts, except that the village council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking, adequate for the uses proposed. Alleys may be provided in residential areas at the option of the subdivider but are to be discouraged where they would serve no useful purpose or where easements would better serve the purpose.
 - (17) Curbs and gutters may be provided on both sides of the street and constructed to standard specifications of the village under the supervision of the engineer and subject to their approval.
 - (18) Sidewalks may be provided along paved streets. They shall have a minimum width of 42 inches and shall be constructed under the supervision and approval of the engineer in accordance with standard specifications of the village.
 - (19) Walkways, bike paths, bridle paths, and watercourses shall provide a minimum right-of-way width of ten feet and a minimum pavement width, if any, of ten feet.
- (Ord. No. 205, § 15(A), 3-1-2021)

Sec. 18-323. Drainage.

Adequate provision shall be made for drainage of stormwater subject to the approval of the engineer in accordance with the master drainage plan and requirements pursuant to the National Flood Insurance Program of the Federal Emergency Management Agency.

(Ord. No. 205, § 15(B), 3-1-2021)

Sec. 18-324. Easements.

Easements of at least five feet in width shall be provided and dedicated on each side of all rear lot lines where necessary for poles, wires, conduits, storm, sanitary sewer, gas, water, and other mains. An

adequate easement shall be dedicated along all important watercourses for the purpose of widening, deepening, sloping, improving, or protecting the channel for drainage purposes. Where a cut or fill road slope is outside the normal right-of-way of the street, then a slope easement shall be provided of sufficient width to permit maintenance of the slopes.

(Ord. No. 205, § 15(C), 3-1-2021)

Sec. 18-325. Blocks.

The lengths, widths, and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; to zoning requirements as to lot sizes and dimensions; to needs for convenient access, circulation, control, and safety of street traffic; and to limitations and opportunities to topography.

(Ord. No. 205, § 15(D), 3-1-2021)

Sec. 18-326. Lots.

The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites properly related to topography and the character of adjacent development. All sidelines or radial to curved.

(Ord. No. 205, § 15(E), 3-1-2021)

Sec. 18-327. Public sites and open spaces.

Where a proposed park, playground, school or other public use shown in the masterplan is located in whole or in part in a subdivision, the village council may require the dedication or reservation of such area within the subdivision in those cases in which the village council deems such requirements to be reasonable.

(Ord. No. 205, § 15(F), 3-1-2021)

Chapter 19

RESERVED

Chapter 20

TAXATION AND FINANCE*

Article I. In General

Secs. 20-1—20-18. Reserved.

Article II. Alcoholic Beverages

Division 1. Generally

Sec. 20-19. Definitions.
Secs. 20-20—20-41. Reserved.

Division 2. License Tax

Sec. 20-42. Imposition of liquor license tax.
Sec. 20-43. Failure to pay tax.
Sec. 20-44. Penalty.
Secs. 20-45—20-61. Reserved.

Article III. Gross Receipts Tax

Sec. 20-62. Imposition of tax.
Sec. 20-63. General provisions.
Sec. 20-64. Specific exemptions.
Sec. 20-65. Dedication.

***State law references**—Municipal financial matters, NMSA 1978, § 3-37-1 et seq.; municipal license and taxing authority, NMSA 1978, § 3-38-1 et seq.

ARTICLE I. IN GENERAL

Secs. 20-1—20-18. Reserved.

ARTICLE II. ALCOHOLIC BEVERAGES*

DIVISION 1. GENERALLY

Sec. 20-19. 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:

Club means any non-profit group, including an auxiliary or subsidiary group, organized and operated under the laws of this state, with a membership of not less than 50 members who pay membership dues at the rate of not less than \$5.00 per year and who under the constitution and bylaws of the club have all voting rights and full membership privileges, and which group is the owner, lessee, or occupant of a premises used exclusively for club purposes and which group the director finds is operated solely for recreation, social, patriotic, political, benevolent, or athletic purposes.

Department means the department of alcoholic beverage control.

Director means the director of the department of alcoholic beverage control.

Dispenser means any person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in his possession with the intent to sell alcoholic beverages by the drink for consumption on the licensed premises and in unbroken packages for consumption and not for resale off the licensed premises.

Restaurant means any establishment having a state resident as a proprietor or manager which is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and which has a dining room, a kitchen, and the employees necessary for preparing, cooking, and serving meals, provided that the term "restaurant" does not include establishments defined in regulations promulgated by the director as serving only hamburgers, sandwiches, salads, and other fast foods.

Retailer means any person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in his possession with intent to sell any alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises.

(Ord. No. 65, § 1, 7-12-1993)

Secs. 20-20—20-41. Reserved.

***State law references**—Authority to levy a municipal license tax, NMSA 1978, § 7-24-1; municipal excise tax on liquor prohibited, NMSA 1978, § 3-18-2.

DIVISION 2. LICENSE TAX*

Sec. 20-42. Imposition of liquor license tax.

(a) Pursuant to the provisions of NMSA 1978, § 7-24-1, no person who has been issued a state license from the department shall be given possession of the license by the municipality until the person has paid the municipal license tax as follows:

- (1) Payment in full annually on or before June 30.
- (2) Payment in two installments of equal amounts, the first of which is due and payable by July 1. Each subsequent installment shall be due and payable in equal time periods, the last of which will be no later than June 30.
- (3) The license tax shall be prorated so that licenses issues prior to October 1 and of any year shall be subject to the full amount of the annual license tax. Licenses issued on or subsequent to October 1 and before January 1 shall be subject three-fourths of the annual license tax. Licenses issued on or subsequent to January 1 and prior to April 1 of a year shall be subject to one-half of the annual license tax. Licenses issues on or subsequent to April 1 shall be subject to one-quarter of the annual license tax.

(b) The tax rates shall be \$250.00 annually for the following licenses:

- (1) Retailer's license;
- (2) Dispenser's license;
- (3) Special dispenser's permit;
- (4) Club license;
- (5) Restaurant license.

(c) Persons granted a special dispenser's permit, under the provisions of NMSA 1978, § 60-6A-12, shall pay to the municipality a fee in an amount on file in the village offices per day for each day the permittee dispenses alcoholic beverages.

(Ord. No. 65, § 2, 7-12-1993)

State law references—Limitation on number of licenses, NMSA 1978, § 60-6A-18; maximum tax, NMSA 1978, § 7-21-1; maximum special dispenser permit fee, NMSA 1978, § 60-6A-12.

Sec. 20-43. Failure to pay tax.

Failure of any person holding a retailer's, dispenser's, club, or restaurant license on the date and in the manner imposed by this article shall be subject to appropriate action by the governing body , as provided by NMSA 1978, § 7-24-3, relating to the closing of establishments.

(Ord. No. 65, § 4, 7-12-1993)

***State law reference**—Authority to levy a municipal license tax, NMSA 1978, § 7-24-1.

Sec. 20-44. Penalty.

Any person violating any of the provisions of this article shall be subject to punishment by a fine not to exceed \$500.00 or by imprisonment in jail not to exceed 90 days, or by both such fine and imprisonment.

(Ord. No. 65, § 3, 7-12-1993)

Secs. 20-45—20-61. Reserved.**ARTICLE III. GROSS RECEIPTS TAX*****Sec. 20-62. Imposition of tax.**

There is imposed on any person engaging in business in this municipality for the privilege of engaging in business in this municipality an excise tax equal to 0.25 percent of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this article is pursuant to the Municipal Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "municipal gross receipts tax."

(Ord. No. 150, § 1, 3-6-2012)

Sec. 20-63. General provisions.

This article hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

(Ord. No. 150, § 2, 3-6-2012)

Sec. 20-64. Specific exemptions.

No municipal gross receipts tax shall be imposed on the gross receipts arising from:

- (1) Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside of the municipality;
- (2) A business located outside the boundaries of a municipality on land owned by that municipality for which a state gross receipts tax distribution is made pursuant to NMSA 1978, § 7-1-6.4(C);
or
- (3) Direct broadcast satellite services.

(Ord. No. 150, § 3, 3-6-2012)

***State law reference**—Municipal Local Option Gross Receipts and Compensating Tax Act, NMSA 1978, § 7-19D-1 et seq.

Sec. 20-65. Dedication.

Revenue from the municipal gross receipts tax will be used for the purpose listed in this section:

General fund.

(Ord. No. 150, § 4, 3-6-2012)

Chapter 21

RESERVED

Chapter 22

TRAFFIC AND VEHICLES*

Article I. In General

Secs. 22-1—22-18. Reserved.

Article II. Uniform Traffic Ordinance

Division 1. Generally

Secs. 22-19—22-41. Reserved.

Division 2. Penalty Assessment

- Sec. 22-42. Violation of state traffic ordinance defined.
- Sec. 22-43. Exclusions.
- Sec. 22-44. Acceptance of a notice to appear.
- Sec. 22-45. Penalty assessment fee.
- Secs. 22-46—22-63. Reserved.

Division 3. Penalty Assessment Misdemeanors

- Sec. 22-64. Notice of penalty assessment misdemeanors.
- Sec. 22-65. Option.
- Sec. 22-66. Effect.
- Secs. 22-67—22-90. Reserved.

Division 4. Payment of Assessments

- Sec. 22-91. Failure to pay penalty assessment—Penalties imposed.
- Sec. 22-92. Failure to pay penalty assessment—Misdemeanor.
- Sec. 22-93. Notification of the department of motor vehicles.

***State law references**—Municipal parking law, NMSA 1978, § 3-50-1 et seq.; motor vehicle code, NMSA 1978, §§ 66-1-1—66-8-141; powers of local authorities, NMSA 1978, § 66-7-9.

ARTICLE I. IN GENERAL

Secs. 22-1—22-18. Reserved.

ARTICLE II. UNIFORM TRAFFIC ORDINANCE*

DIVISION 1. GENERALLY

Secs. 22-19—22-41. Reserved.

DIVISION 2. PENALTY ASSESSMENT

Sec. 22-42. Violation of state traffic ordinance defined.

As used in the state uniform traffic ordinance adopted by reference by the village, the term "penalty assessment misdemeanor" means violation of any of the following listed sections of the state uniform traffic ordinance, for which the listed penalty assessment is established:

<i>Common Name of Offense</i>		<i>Uniform Traffic Ordinance Section Violated</i>	<i>Penalty Assessment</i>
Flashing signals		12-5-8	\$15.00
Speed regulations			
(1)	Up to and including 10 miles an hour over speed limit	12-6-1	\$15.00
(2)	From 11 up to and including 15 miles an hour over speed limit		\$30.00
(3)	From 16 up to and including 20 miles an hour over speed limit		\$65.00
(4)	From 21 up to and including 25 miles an hour over speed limit		\$100.00
(5)	From 26 up to and including 30 miles an hour over the speed limit		\$125.00
(6)	From 31 up to and including 35 miles an hour over the speed limit		\$150.00
(7)	More than 35 miles an hour over the speed limit		\$200.00
Minimum speed regulations		12-6-1.5	\$15.00
Overtaking a vehicle on the left		12-6-2.3	\$15.00
Limitations on overtaking on the left		12-6-2.4	\$15.00
No passing zones and restrictions on passing		12-6-2.7	\$15.00

*State law reference—Authority to adopt traffic code, NMSA 1978, § 3-17-6.

<i>Common Name of Offense</i>	<i>Uniform Traffic Ordinance Section Violated</i>	<i>Penalty Assessment</i>
Following too closely	12-6-2.13	\$15.00
Driving on divided streets	12-6-2.14	\$15.00
Vehicle approaching or entering intersection	12-6-4.1	\$15.00
Vehicles turning left at intersection	12-6-4.2	\$15.00
Vehicle entering stop or yield intersection	12-6-4.3	\$15.00
Limitations on turning around	12-6-5.5	\$15.00
Starting parked vehicle	12-6-5.7	\$15.00
Turning and stopping movements and required signals	12-6-5.8	\$15.00
Stopping, standing and parking	12-6-6	\$15.00
Special stops required	12-6-7	\$15.00
Stopping for school bus	12-6-7.3	\$30.00
Careless driving	12-6-12.4	\$50.00
Operators and chauffeurs must be licensed	12-6-12.5	\$15.00
Limitations on backing	12-6-12.9	\$15.00
Child not in restraint device or safety belt	12-6-13.12	\$50.00
Unfastened safety belt	12-6-13.13	\$25.00
Possession or consumption of alcoholic beverages in open containers, 1st offense	12-6-13.14	\$25.00
Destructive or injurious material on roadway	12-6-13.5	\$100.00
Drivers to exercise due care	12-6-14.8	\$25.00
When lighted lamps are required	12-10-1.3	\$15.00
Headlamps on vehicles	12-10-1.5	\$15.00
Dimming of lights	12-10-1.6	\$15.00
Tail lamps	12-10-1.7	\$15.00
Mufflers, prevention of noise	12-10-1.10	\$15.00
Lamp or flag on projecting load	12-10-1.11	\$15.00
Display of current valid registration plate	12-10-4	\$15.00
Evidence of registration to be signed and exhibited on demand	12-10-5	\$15.00

(Ord. No. 55, § 2(A), 12-9-1991)

Sec. 22-43. Exclusions.

Penalty assessment misdemeanor does not include any violation which has caused or contributed to the cause of an accident resulting in injury or death to any person.

(Ord. No. 55, § 2(B), 12-9-1991)

Sec. 22-44. Acceptance of a notice to appear.

When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, no fine imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor, and no probation imposed upon a suspended or deferred sentence shall exceed 90 days.

(Ord. No. 55, § 2(C), 12-9-1991)

Sec. 22-45. Penalty assessment fee.

In addition to the penalty assessment established for each penalty assessment misdemeanor pursuant to this section, there shall be assessed a penalty assessment fee in an amount on file in the village offices to help defray the costs of local government corrections.

(Ord. No. 55, § 2(D), 12-9-1991)

Secs. 22-46—22-63. Reserved.

DIVISION 3. PENALTY ASSESSMENT MISDEMEANORS

Sec. 22-64. Notice of penalty assessment misdemeanors.

Unless a warning notice is given, at the time of making an arrest for any penalty assessment misdemeanor, the arresting officer shall offer the alleged violator the option of accepting a penalty assessment. The violator's signature on the penalty assessment notice constitutes an acknowledgement of guilt of the offense stated in the notice, and payment of the prescribed penalty assessment is a complete satisfaction of the violation.

(Ord. No. 55, § 3(A), 12-9-1991)

Sec. 22-65. Option.

Payment of any penalty assessment must be made by mail to the Municipal Court, Traffic Violations Bureau, City of Albuquerque, New Mexico within five days from the date of arrest. Payments of penalty assessments are timely if post-marked within the time limits set from the date of arrest. The Traffic Violations Bureau shall issue a receipt when a penalty assessment is paid by currency, but checks tendered by the violator upon which payment is received are sufficient receipt.

(Ord. No. 55, § 3(B), 12-9-1991)

Sec. 22-66. Effect.

No record of any penalty assessment payment is admissible as evidence in any court in any civil action.

(Ord. No. 55, § 3(C), 12-9-1991)

Secs. 22-67—22-90. Reserved.

DIVISION 4. PAYMENT OF ASSESSMENTS

Sec. 22-91. Failure to pay penalty assessment—Penalties imposed.

If a penalty assessment is not paid within five days from date of arrest, the violator shall be prosecuted for the violation charged on the penalty assessment notice in a manner as if a penalty assessment notice had not been issued. Upon conviction in such prosecution, the court shall impose penalties as provided by the state uniform traffic ordinance (section 12-12-1.1) or other law relating to motor vehicles for the particular offense charged, and the schedule of penalty assessment shall not apply.

(Ord. No. 55, § 4(A), 12-9-1991)

Sec. 22-92. Failure to pay penalty assessment—Misdemeanor.

In addition to the prosecution provided for in section 22-91, it is a misdemeanor for any person who has elected to pay a penalty assessment to fail to do so within five days from the date of arrest.

(Ord. No. 55, § 4(B), 12-9-1991)

Sec. 22-93. Notification of the department of motor vehicles.

The office of the municipal court shall notify the department of motor vehicles of the state when a person fails to pay a penalty assessment within the required period of time. The department of motor vehicles shall not renew the person's license to drive until the office of the municipal court notifies the department of motor vehicles that the penalty assessment, or its equivalent, as well as any additional penalties imposed are properly disposed of.

(Ord. No. 55, § 4(C), 12-9-1991)

Chapter 23

RESERVED

Chapter 24

UTILITIES*

Article I. In General

Secs. 24-1—24-18. Reserved.

Article II. Administration

Division 1. Generally

Secs. 24-19—24-39. Reserved.

Division 2. Identity Theft Program

- Sec. 24-40. Program adoption.
- Sec. 24-41. Program purpose and definitions.
- Sec. 24-42. Identification of red flags.
- Sec. 24-43. Detecting red flags.
- Sec. 24-44. Preventing and mitigating identity theft.
- Sec. 24-45. Program updates.
- Sec. 24-46. Program administration.
- Secs. 24-47—24-65. Reserved.

Article III. Water Service

Division 1. Generally

- Sec. 24-66. Short title.
- Sec. 24-67. Water utility.
- Sec. 24-68. Applicability.
- Sec. 24-69. Definitions.
- Sec. 24-70. Transfer of domestic right to use water.
- Sec. 24-71. Penalty.
- Secs. 24-72—24-100. Reserved.

Division 2. Administration

- Sec. 24-101. Water operator.
- Sec. 24-102. Management, rules, regulations and specifications.
- Secs. 24-103—24-132. Reserved.

Division 3. Billing, Fees, Rates and Charges

- Sec. 24-133. Water rates for construction projects within village.
- Sec. 24-134. Billing and connection charges.
- Sec. 24-135. Delinquencies and disconnections.

***State law references**—Public utilities, NMSA 1978, § 3-23-1 et seq.; sewer facilities, NMSA 1978, § 3-26-1 et seq.; water facilities, NMSA 1978, § 3-27-1 et seq.

TIJERAS CODE

- Sec. 24-136. Temporary termination of service.
- Sec. 24-137. Additional remedy.
- Secs. 24-138—24-157. Reserved.

Division 4. Connections

- Sec. 24-158. Connection permit required.
- Sec. 24-159. Metering.
- Sec. 24-160. Water service connections—New construction of proposed lines.
- Sec. 24-161. Water service connections—Existing lines.
- Sec. 24-162. Final authority.
- Sec. 24-163. Inspection of hook-up.
- Secs. 24-164—24-194. Reserved.

Division 5. Extension of Service

- Sec. 24-195. Extensions of main lines for new construction.
- Secs. 24-196—24-213. Reserved.

Division 6. Conservation

- Sec. 24-214. Water conservation.
- Secs. 24-215—24-236. Reserved.

Division 7. Use Regulations

- Sec. 24-237. Emergency shut off.
- Sec. 24-238. Damages to system.
- Sec. 24-239. Waste of water.
- Sec. 24-240. Termination for misconduct.
- Secs. 24-241—24-258. Reserved.

Article IV. Wastewater Service

Division 1. Generally

- Sec. 24-259. Short title.
- Sec. 24-260. Wastewater utility.
- Sec. 24-261. Applicability.
- Sec. 24-262. Definitions.
- Sec. 24-263. Unauthorized disposal.
- Sec. 24-264. Private sewage disposal.
- Sec. 24-265. Penalty.
- Secs. 24-266—24-293. Reserved.

Division 2. Administration

- Sec. 24-294. Water operator.
- Sec. 24-295. Management, rules, regulations and standards.
- Sec. 24-296. Connection required.
- Sec. 24-297. Application for connection.

UTILITIES

- Sec. 24-298. Responsibility for making connections.
- Secs. 24-299—24-329. Reserved.

Division 3. Billing, Fees, Rates and Charges

- Sec. 24-330. Connection fees.
- Sec. 24-331. Wastewater system use fees.
- Sec. 24-332. Special charges.
- Sec. 24-333. Delinquencies and disconnections.
- Sec. 24-334. Discontinuation of wastewater service.
- Sec. 24-335. Notices.
- Sec. 24-336. Forms and standards.
- Sec. 24-337. Additional remedy.
- Secs. 24-338—24-362. Reserved.

Division 4. Standards

- Sec. 24-363. Sand traps and grease traps.
- Sec. 24-364. Customer's continuing responsibilities.
- Sec. 24-365. Requirements for new land subdivisions.
- Sec. 24-366. Requirements for new buildings.
- Secs. 24-367—24-390. Reserved.

Division 5. Sewer Use Regulations

- Sec. 24-391. Sewage characteristics.
- Sec. 24-392. Damage to wastewater system; excavations.
- Sec. 24-393. Emergency shutoff to repair system.

ARTICLE I. IN GENERAL

Secs. 24-1—24-18. Reserved.

ARTICLE II. ADMINISTRATION**DIVISION 1. GENERALLY**

Secs. 24-19—24-39. Reserved.

DIVISION 2. IDENTITY THEFT PROGRAM**Sec. 24-40. Program adoption.**

The village water system developed this Identity Theft Prevention Program (program) pursuant to the Federal Trade Commission's Red Flags Rule ("rule"), which implements section 114 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003, 16 CFR 681.2. This program was developed with oversight and approval of the village council. After consideration of the size and complexity of the utility's operations and account systems, and the nature and scope of the utility's activities, the village council determined that this program was appropriate for the village water system and therefore approved this program on August 10, 2009.

(Ord. No. 134, § I, 6-9-2008)

Sec. 24-41. Program purpose and definitions.

(a) *Fulfilling requirements of the red flags rule.* Under the red flag rule, every financial institution and creditor is required to establish an "identity theft prevention program" tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

- (1) Identify relevant red flags for new and existing covered accounts and incorporate those red flags into the program;
- (2) Detect red flags that have been incorporated into the program;
- (3) Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
- (4) Ensure the program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from identity theft.

(b) *Red flags rule definitions used in this program.*

- (1) The red flags rule defines "identity theft" as "fraud committed using the identifying information of another person" and a "red flag" as a "pattern, practice, or specific activity that indicates the possible existence of identity theft."

- (2) According to the rule, a municipal utility is a creditor subject to the rule requirements. The rule defines creditors "to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors."
- (3) All the utility's accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the rule. Under the rule, a "covered account" is:
 - a. Any account the utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
 - b. Any other account the utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the utility from identity theft.
- (4) The term "identifying information" is defined under the rule as "any name or number that may be used, alone or in conjunction with any other information, to identify a specific person," including name, address, telephone number, social security number, date of birth, government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer's internet protocol address, or routing code.

(Ord. No. 134, § II, 6-9-2008)

Sec. 24-42. Identification of red flags.

In order to identify relevant red flags, the utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with identity theft. The utility identifies the following red flags, in each of the listed categories:

- (1) *Notifications and warnings from credit reporting agencies.*
 - a. Report of fraud accompanying a credit report;
 - b. Notice or report from a credit agency of a credit freeze on a customer or applicant;
 - c. Notice or report from a credit agency of an active-duty alert for an applicant; and
 - d. Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.
- (2) *Suspicious documents.*
 - a. Identification document or card that appears to be forged, altered or inauthentic;
 - b. Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
 - c. Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
 - d. Application for service that appears to have been altered or forged.

- (3) *Suspicious personal identifying information.*
- a. Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
 - b. Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
 - c. Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
 - d. Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
 - e. Social security number presented that is the same as one given by another customer;
 - f. An address or phone number presented that is the same as that of another person;
 - g. A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
 - h. A person's identifying information is not consistent with the information that is on file for the customer.
- (4) *Suspicious account activity or unusual use of account.*
- a. Change of address for an account followed by a request to change the account holder's name;
 - b. Payments stop on an otherwise consistently up-to-date account;
 - c. Account used in a way that is not consistent with prior use (example: very high activity);
 - d. Mail sent to the account holder is repeatedly returned as undeliverable;
 - e. Notice to the utility that a customer is not receiving mail sent by the utility;
 - f. Notice to the utility that an account has unauthorized activity;
 - g. Breach in the utility's computer system security; and
 - h. Unauthorized access to or use of customer account information.
- (5) *Alerts from others.* Notice to the utility from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in identity theft.

(Ord. No. 134, § III, 6-9-2008)

Sec. 24-43. Detecting red flags.

(a) *New accounts.* In order to detect any of the red flags identified in section 24-42 associated with the opening of a new account, utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

- (1) Require certain identifying information, such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;

- (2) Verify the customer's identity (for instance, review a driver's license or other identification card);
- (3) Review documentation showing the existence of a business entity; and
- (4) Independently contact the customer.

(b) *Existing accounts.* In order to detect any of the red flags identified in section 24-42 for an existing account, utility personnel will take the following steps to monitor transactions with an account:

- (1) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- (2) Verify the validity of requests to change billing addresses; and
- (3) Verify changes in banking information given for billing and payment purposes.

(Ord. No. 134, § IV, 6-9-2008)

Sec. 24-44. Preventing and mitigating identity theft.

In the event utility personnel detect any identified red flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the red flag:

- (1) *Prevent and mitigate.*
 - a. Continue to monitor an account for evidence of identity theft;
 - b. Contact the customer;
 - c. Change any passwords or other security devices that permit access to accounts;
 - d. Not open a new account;
 - e. Close an existing account;
 - f. Reopen an account with a new number;
 - g. Notify the program administrator for determination of the appropriate step to take;
 - h. Notify law enforcement; or
 - i. Determine that no response is warranted under the particular circumstances.
- (2) *Protect customer identifying information.* In order to further prevent the likelihood of identity theft occurring with respect to utility accounts, the utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:
 - a. Ensure that its website is secure or provide clear notice that the website is not secure;
 - b. Ensure complete and secure destruction of paper documents and computer files containing customer information;
 - c. Ensure that office computers are password protected and that computer screens lock after a set period of time;
 - d. Keep offices clear of papers containing customer information;
 - e. Request only the last four digits of social security numbers (if any);
 - f. Ensure computer virus protection is up to date; and

- g. Require and keep only the kinds of customer information that are necessary for utility purposes.

(Ord. No. 134, § V, 6-9-2008)

Sec. 24-45. Program updates.

This program will be periodically reviewed and updated to reflect changes in risks to customers and the soundness of the utility from identity theft. At least once per year, the program administrator will consider the utility's experiences with identity theft situation, changes in identity theft methods, changes in identity theft detection and prevention methods, changes in types of accounts the utility maintains and changes in the utility's business arrangements with other entities. After considering these factors, the program administrator will determine whether changes to the program, including the listing of red flags, are warranted. If warranted, the program administrator will update the program or present the village council with his or her recommended changes and the village council will make a determination of whether to accept, modify or reject those changes to the program.

(Ord. No. 134, § VI, 6-9-2008)

Sec. 24-46. Program administration.

(a) *Oversight.* Responsibility for developing, implementing and updating this program lies with an identity theft committee for the utility. The committee is headed by a program administrator who may be the head of the utility or his or her appointee. Two or more other individuals appointed by the head of the utility or the program administrator comprise the remainder of the committee membership. The program administrator will be responsible for the program administration, for ensuring appropriate training of utility staff on the program, for reviewing any staff reports regarding the detection of red flags and the steps for preventing and mitigating identity theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the program.

(b) *Staff training and reports.* Utility staff responsible for implementing the program shall be trained either by or under the direction of the program administrator in the detection of red flags, and the responsive steps to be taken when a red flag is detected. (The utility may include in its program how often training is to occur. The program may also require staff to provide reports to the program administrator on incidents of identity theft, the utility's compliance with the program and the effectiveness of the program.)

(c) *Service provider arrangements.* In the event the utility engages a service provider to perform an activity in connection with one or more accounts, the utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.

- (1) Require, by contract, that service providers have such policies and procedures in place; and
- (2) Require, by contract, that service providers review the utility's program and report any red flags to the program administrator.

(d) *Specific program elements and confidentiality.* For the effectiveness of identity theft prevention programs, the red flag rule envisions a degree of confidentiality regarding the utility's specific practices relating to identity theft detection, prevention and mitigation. Therefore, under this program, the knowledge of such specific practices is to be limited to the identity theft committee and those employees who need to know them for purposes of preventing identity theft. Because this program is to be adopted by a public body and thus publicly available, it would be counterproductive to list these specific practices here. Therefore, only the program's general red flag detection, implementation and prevention practices are listed in this document.

(Ord. No. 134, § VII, 6-9-2008)

Secs. 24-47—24-65. Reserved.

ARTICLE III. WATER SERVICE*

DIVISION 1. GENERALLY

Sec. 24-66. Short title.

This article shall be known as the Water Service Ordinance.
(Ord. No. 200, § 1, 12-7-2020)

Sec. 24-67. Water utility.

The village water system is hereby declared to be for the health, safety and welfare of the residents of the village.
(Ord. No. 200, § 2, 12-7-2020)

Sec. 24-68. Applicability.

This article shall govern production, supply and use of water within the village for domestic, commercial or industrial purposes.
(Ord. No. 200, § 3, 12-7-2020)

Sec. 24-69. 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:

Applicant means any person who has applied to the village for a connection to the service.

Commercial consumer means a service unit not qualifying as a residential consumer, including any residence, apartment or multiple residential dwelling accommodating two or more families; each having separate kitchen facilities where rental units are not separately metered; roominghouse, hotel, camp, cabin camp, motel, motor court, trailer park, sports field church, school or any other institution or place where professional services are offered, or any commercial enterprise or business activity is conducted.

***State law reference**—Water facilities, NMSA 1978, § 3-27-1 et seq.

Consumer means any person who is receiving the service.

Lot means a parcel of land, the legal description of which is duly recorded with the county clerk.

Minimum connection fee means the applicable connection fee which is on file in the village clerk's office.

New lot means a parcel of land approved by the village pursuant to chapter 18 and duly recorded with the county clerk.

Occupied means actual use and possession of a structure and/or area for the purpose for which it is designed.

Penalties means penalties as provided by section 24-71 hereunder.

Private well means any water well in existence before water service becomes available or in the future which is used solely for irrigation or agricultural purposes.

Regulations means regulations proposed by the village and the village council.

Residential consumer means a single-family residence or dwelling place, including an individual apartment or each unit of a multiple residential dwelling, where service is utilized only for domestic purposes and each unit is separately metered.

Service means the sale or supply of water by the village to property owners or consumers.

Service unit means each location requiring service that is under separate ownership, occupancy or lease, including each owner, tenant or occupant utilizing a portion of a single building or location.

Statement means statement of account or bill prepared by the village that itemizes the monthly water usage and amount owed based on the current rate schedule.

System means the municipal water system owned and operated by the village.

Undeveloped lot means a vacant lot or a lot containing unpermitted structures.
(Ord. No. 200, § 4, 12-7-2020)

Sec. 24-70. Transfer of domestic right to use water.

(a) The landowner shall assign the domestic right to use water to the village as per the Change Point of Diversion Agreement with the village.

(b) Commercial consumers shall assign rights to use water to the village in an amount equaling the projected yearly demand. The consumer shall submit documentation for review and approval by the village that establishes the projected yearly demand. If these rights cannot be diverted, the commercial consumer will be required to purchase the necessary water rights. The commercial consumer may elect to have the village purchase the rights and reimburse the village current market rates plus village expenses.
(Ord. No. 200, § 11, 12-7-2020)

Sec. 24-71. Penalty.

(a) Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be fined as detailed in the fee schedule or imprisoned not to exceed 90 days, or both. In addition to such penalties, the village attorney shall have the authority to apply to the district court for the purpose of obtaining an order restraining any person from violation any of the provisions of this article.

(b) Any person caught stealing or attempting to steal water from village hydrants or water lines shall be deemed guilty misdemeanor and on conviction thereof shall be fined as detailed in the fee and the person found guilty shall pay as detailed in fee schedule. In addition, to such penalties, the village attorney shall have the authority to apply to the district court for the purpose of obtaining an order restraining any person from stealing water from village hydrants or lines.

(c) Upon conviction, the offender shall be billed for any village attorney fees incurred during legal process.

(Ord. No. 200, § 24, 12-7-2020)

Secs. 24-72—24-100. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 24-101. Water operator.

The mayor shall designate water department operators. It shall be the duty of the water operators to supervise and manage the system, operations, construction, maintenance, repair and replacement. The water operator shall be responsible for all connections to the system. The water operator shall perform such duties in connection with the operation of the system, as the village council may prescribe.

(Ord. No. 200, § 5, 12-7-2020)

Sec. 24-102. Management, rules, regulations and specifications.

The village shall adopt and enforce rules and regulations for the safe, efficient and economical management of the system. Any construction and connection to the water system shall follow compliance with applicable statutes, ordinances, regulations and codes. Before digging, 811 must be called for line spotting.

(Ord. No. 200, § 6, 12-7-2020)

Secs. 24-103—24-132. Reserved.

DIVISION 3. BILLING, FEES, RATES AND CHARGES

Sec. 24-133. Water rates for construction projects within village.

(a) For construction projects within the village, contractors seeking to utilize village water from hydrants will be issued a meter with a deposit fee. Contact the village clerk for current deposit, non-refundable fee and usage rates.

- (b) The village has the right to control water use and restrict the excessive use of water.
- (c) The village does not engage in bulk water user/hauler sales.
- (d) Construction projects will be charged commercial water rates.
(Ord. No. 200, § 12, 12-7-2020)

Sec. 24-134. Billing and connection charges.

- (a) Water service shall be furnished and billed to residential and commercial consumers to meter size.
- (b) Water service rates and all associated fees shall be determined by the village council through a resolution.
- (c) Each year, an automatic three percent annual water service rate increase across all meter sizes will occur.
- (d) Additional increases may be enacted by the village council by resolution. For current rates, please refer to the fee schedule.
- (e) Water service under this monthly rate schedule is available within the corporate limits of the village.
- (f) Service under this fee schedule is applicable to individually metered service units for all water users.
- (g) For service provided outside of the village limits, the water service rates shall be two times the defined rates except as specifically approved by resolution by the village council on a case-by-case basis.
- (h) The village shall establish a system by which the water meter of each consumer shall be read monthly. Monthly water statements shall be furnished to each consumer, based upon the current rates established in the ordinance. Water statements shall be due and payable not later than the 20th day of each month. If the 20th is not a business day, the bill shall be due the next businesses day.
- (i) The finance director shall establish a proper system of accounts for receipts from water charges and expenditures of the system and shall furnish a monthly report to the village council of the receipts and expenditures of the water system.
- (j) In addition to all other fees set forth in this article, a new account setup and water turn on fee must be paid by new homeowners who have purchased homes after water service is available to the residence, except in the case of account inheritance due to death. Please refer to fee schedule.
(Ord. No. 200, § 13, 12-7-2020)

Sec. 24-135. Delinquencies and disconnections.

- (a) A late payment charge of ten percent of the current monthly water charge shall be imposed for failure to pay the current monthly water usage charge by the date due (i.e., within 20 days after the date of mailing the monthly statement).
- (b) Water service can be disconnected if any charge under this article remains unpaid 30 days after the date due.

(c) In order to discontinue service, notice ten days prior to the stated cut-off date will be mailed, return receipt requested, or posted on the consumers residence/business, along with the name and telephone number of the village clerk, who shall hear any appeal of the proposed cut-off and in writing determine whether or not to extend the cut-off date or continue service with conditions and provide the written decision to the consumer.

(d) When water service has been disconnected for delinquent charges, water service shall not be restored to the delinquent consumer until all arrears in charges have been paid, together with the applicable reconnection fee.

(e) When creating a new account for a specific property that is under the same ownership as when water service was established, if an outstanding balance is found, that outstanding balance must be paid in full before establishing the new utility account for that specific property.

(Ord. No. 200, § 15, 12-7-2020)

Sec. 24-136. Temporary termination of service.

In the event any consumer desires to temporarily terminate the water service, written notice to that effect must be filed by the consumer with the village clerk on or before the 15th day of the month. The account will be placed on standby with a monthly minimum usage fee charged based on current rates. Meters will not be removed for temporary terminations of service.

(Ord. No. 200, § 16, 12-7-2020)

Sec. 24-137. Additional remedy.

Pursuant to NMSA 1978, § 3-23-6, any charge by this article shall be payable either by the owner or occupant of the premises to which service is furnished. In addition to any other remedy which may be authorized by this article, the village shall have a lien upon the tract of land being serviced by the system for delinquent charges. The lien shall be imposed and enforced in the manner provided in NMSA 1978, §§ 3-36-1 through 3-36-7.

(Ord. No. 200, § 25, 12-7-2020)

Secs. 24-138—24-157. Reserved.

DIVISION 4. CONNECTIONS

Sec. 24-158. Connection permit required.

All service connections shall be made by the village and only upon receipt of an application signed by the owner or the owner's agent accompanied by payment of all required fees. Connection without payment is a criminal offense, subject to prosecution and imposition of all penalties as provided in section 24-71.

(Ord. No. 200, § 7, 12-7-2020)

Sec. 24-159. Metering.

Each consumer shall have a separate meter. Please refer to the fee schedule.
(Ord. No. 200, § 8, 12-7-2020)

Sec. 24-160. Water service connections—New construction of proposed lines.

(a) The village will notify potential consumers 30 days before the time when water service is expected to be available during new construction of lines. Potential consumers shall have 30 calendar days after notification to apply for water service and payment of the fees provided for in the fee schedule. If such application is not received within 30 days of the notification, the water fees as identified in the fee schedule will have to be paid with the application.

(b) Once the water system is installed, those residents that have signed up will need to contact the village clerk regarding the meter fee. Residents will be notified that they have six months to have their residence connected to the system at a reduced charge. Residents shall coordinate with the village, to facilitate a timely installation of their water meter.

(c) Service location requests within 75 feet of the proposed water distribution lines will be issued a connection permit upon proper application with section 24-161 and payment of meter installation fee.

(d) The location of connection will be determined by the water operator for locations greater than 75 feet from the proposed lines, the provisions of section 24-195 will apply.

(e) Consumers will be responsible for installing their own service line from their property line to the service units, including a cut off on their property, prior to the village installing the meter and water connection.

(f) The commercial and residential water connection fee includes a service line from the tap in the distribution line to the property line of the consumer meter box, meter and miscellaneous fittings and valves to install the meter in the meter box. The connection fee is subject to price increases as meter, meter box, service line, miscellaneous fittings and construction cost increase and are adjusted by the village council by resolution of the fee schedule.

(g) All new lots created after water service is available will be served from the water system. No new or undeveloped lots will be allowed to install private wells to provide for domestic water requirements. The provisions of this subsection do not prevent existing developed lots from continuing use of private wells. All new/undeveloped lots will be required to pay all associated fees.
(Ord. No. 200, § 9, 12-7-2020)

Sec. 24-161. Water service connections—Existing lines.

(a) Service location requests within 75 feet of the existing water distribution lines will be issued a connection permit upon proper application and payment of all fees. The location of connections will be determined by the water operator.

(b) Consumers will be responsible for installing their own service line from the property line to the service unit including a cut off on their property, prior to the village installing the meter and water connection.

(c) The village shall install all meter connections for a residential consumer or commercial consumer in accordance with the fee schedule.

(d) The commercial water connection fee includes a service line from the tap in the distribution line to the property line of the consumer meter box, meter and miscellaneous fittings and valves to install the meter in the meter box. The connection fee is subject to price increases as meter, meter box, service line, miscellaneous fittings and construction cost increase and are adjusted by the village council.

(e) All new lots created after water service is available will be served from the water system. No new or undeveloped lots will be allowed to install private wells to provide for domestic water requirements. The provisions of this subsection do not prevent existing developed lots from continuing use of private wells.

(Ord. No. 200, § 10, 12-7-2020)

Sec. 24-162. Final authority.

The water operator shall be the final authority to determine the size and location of all water facilities used in connection with the system, and in particular, shall have the final authority to determine the sizes of water and main lines and water meters which are to be utilized for making connection to the system. All fixtures and facilities connected to the system shall be installed in compliance with all applicable statutes, ordinance and regulations.

(Ord. No. 200, § 18, 12-7-2020)

Sec. 24-163. Inspection of hook-up.

(a) All connections to the system shall be inspected by the village to ensure proper installation and connection and that there is no piping arrangement or connection by which an unsafe substance may enter the water system. This includes an unauthorized connection to a water distribution line.

(b) The piping system on the consumer's premises shall be inspected and approved by the appropriate governmental agency before the water service will be connected. Cross connections are strictly prohibited. Cross connections and/or any back-flow possibilities revealed by any inspection shall be eliminated before water service is provided to a new consumer or continues to on existing consumer.

(Ord. No. 200, § 19, 12-7-2020)

Secs. 24-164—24-194. Reserved.

DIVISION 5. EXTENSION OF SERVICE

Sec. 24-195. Extensions of main lines for new construction.

Service requests at a distance greater than 75 feet from an existing distribution line will require extension of the distribution mains. The extension of the distribution mains and associated facilities

shall be in accordance with the village's line extension regulations and will be at the cost of the consumer, including all required materials, engineering fees, etc. Extension shall comply with the following provisions:

- (1) Size of service mains shall be as required to service the consumers; and the village, at its option, may require an engineering analysis of the system to verify such line sizes. Design standards of the American Water Works Association shall be followed.
- (2) Stamped engineering plans of the proposed mainline extension layouts shall be submitted to the village for approval before any construction is started. The drawings shall show the location and size of all mains and service lines, the location and size of all appurtenances including valves, fire hydrants and meters. All new construction shall comply with village specifications. Spacing of fire hydrants shall be no more than 500 feet apart.
- (3) If not planned within the public right-of-way or within limits of a village utility easement, the applicant shall obtain all rights of way and utility easements. The village may require the applicant to obtain a certification of right-of-way or easement by a registered land surveyor.
- (4) Acceptance by the village of the main line is subject to the village engineer certifying it to be in conformance with the applicable American Water Works Association standards and specifications and the engineer may require such tests and other evidence he deems necessary to ensure compliance with standards and specifications. All construction shall be done by a licensed underground utility contractor.
- (5) Upon completion and acceptance by the village, all of the water main and appurtenances shall become the property of the village, and the dedication of the facility to the village shall explicitly convey to the village the perpetual right to access, use, own operate, construct and reconstruct the facilities therein.

(Ord. No. 200, § 17, 12-7-2020)

Secs. 24-196—24-213. Reserved.

DIVISION 6. CONSERVATION

Sec. 24-214. Water conservation.

On an annual basis, the property owner may apply for a water conservation incentive. This water conservation incentive is available to property owners who provide the village with proof of purchase of water conservation approved products. Products which qualify for the water conservation incentive are low flow toilets, shower head water restrictors, gray water systems, etc. An exhaustive list will be created by the village council through a resolution. Property owners are encouraged to verify with the village that a product is part of the incentive program prior to purchase, as no incentive will be assessed for any nonqualifying products. Incentives shall be assessed at ten percent of the purchase value, up to a maximum of \$50.00 annually.

(Ord. No. 200, § 14, 12-7-2020)

Secs. 24-215—24-236. Reserved.

DIVISION 7. USE REGULATIONS

Sec. 24-237. Emergency shut off.

The village shall reserve the right at any time, without notice, to shut off water in the system, for the purposes of necessary repairs to protect the public health and safety. In that event, the village shall not be liable for any damages occasioned by the interruption of water service.

(Ord. No. 200, § 20, 12-7-2020)

Sec. 24-238. Damages to system.

It shall be unlawful for any person to damage the system in any way, including, but not limited to, removing, damaging any part of the system and/or contamination the system, removing, obstructing or damaging any fire hydrant, valve box or cover. It shall be unlawful for any person to excavate within ten feet of any part of the system, without first obtaining clearance from New Mexico 811.

(Ord. No. 200, § 21, 12-7-2020)

Sec. 24-239. Waste of water.

The village promotes the conservation of water to minimize draining existing supplies and to reduce the cost of treating both fresh and wastewater. No water delivered to any customer shall be unnecessarily wasted. All water outlets should be kept closed except when in use. Water service shall be subject to disconnection due to unnecessary waste of water.

(Ord. No. 200, § 22, 12-7-2020)

Sec. 24-240. Termination for misconduct.

The village may disconnect or discontinue water service for any of the following activities:

- (1) Tampering with the village water meter or connection.
- (2) Unauthorized connection to a water distribution line (including private wells).
- (3) Failure to permit the water operator or his agent reasonable access to the meter or connection.
- (4) Use of service or operation of equipment so as to interfere with the quality, safety or continuity of service furnished by village to others.
- (5) Waste of water through improper faulty piping, equipment, persistent leak or otherwise shall be handled as follows:
 - a. If no action or communication comes from the consumer/owner in 30 days, the village will mail a notice to shut off in ten business days, return receipt, and/or post on residence or business.
 - b. Shut off can be avoided by making arrangements, with the village clerk, to correct the problem.

- (6) Violation of any section of this article.

(Ord. No. 200, § 23, 12-7-2020)

Secs. 24-241—24-258. Reserved.

ARTICLE IV. WASTEWATER SERVICE*

DIVISION 1. GENERALLY

Sec. 24-259. Short title.

This article shall be known as the "Wastewater Service Ordinance."
(Ord. No. 180, § 1-1, 6-22-2020)

Sec. 24-260. Wastewater utility.

(a) The village wastewater system is hereby declared to be established for the health, safety and welfare of the village for the purposes of operation, management, accounting, and for the billing and collection of user fees, connection fees and other charges.

(b) The completion of the wastewater system and the availability of service is subject to the availability of funding for the design and construction of the system.
(Ord. No. 180, § 1-2, 6-22-2020)

Sec. 24-261. Applicability.

(a) This article shall govern the collection and disposal of sewage and polluted water within the village.

(b) Service shall only be provided within the village's municipal boundaries except as otherwise provided in this article.

(c) On a case-by-case basis, approved by the village council to protect the health, safety and welfare of the village, service may be provided to customers outside the village at terms and fees established by the village.
(Ord. No. 180, § 1-3, 6-22-2020)

Sec. 24-262. 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:

Applicant means any property owner or agent who has submitted an application for service.

Application means the application a customer submits to the village for service. The term "application" includes required attachments and supplemental information.

BOD means five-day biochemical oxygen demand as determined by standard methods.

COD means chemical oxygen demand as determined by standard methods.

***State law reference**—Sewage facilities, NMSA 1978, § 3-26-1 et seq.

Commercial customer means any customer who is not a residential customer.

Control panel means the grinder pumping unit's electrical disconnect panel, alarm device, and wiring from the control panel to the grinder pumping unit.

Customer means any person receiving service.

Domestic sewage means wastewater normally generated in, and normally disposed of in, bathrooms, rest rooms and residential kitchens. Also included in the term "domestic sewage" is wastewater normally generated in cleaning and maintaining homes and commercial and institutional facilities and normally disposed of in interior building wastewater drainage systems, provided such wastewater does not contain any prohibited sewage.

Double grinder pumping unit means a grinder pumping unit having two grinder pumps.

Drainage water means any water draining from roofs, patios, driveways, parking areas, areas outside buildings or areas flooded by stormwater. Also included is any groundwater which is pumped by the customer but not used for normal domestic uses in a building or any groundwater that may seep into the customer's gravity wastewater service line.

Easement means the easement granted by an applicant/customer to the village for installation, operation and maintenance of the grinder pumping unit and pressure service line.

Gravity wastewater service line means the customer's gravity wastewater service pipe which transmits the customer's sewage to the grinder pumping unit.

Grease trap means a water operator/contractor approved, customer provided and maintained device designed to remove grease and oil from the customer's wastewater.

Grinder pumping unit means the village's sewage grinder pumping unit, including grinder pump, tank, control panel and appurtenances.

Health officer means any person or his authorized representative appointed by the village as the health officer (or the water operator/contractor if a village health officer has not been appointed) or any state environment department representative charged with approval or inspection of public or private sewage facilities.

Occupied means the use and possession of a structure for the purpose for which it is designed.

Other permitted sewage means wastewater normally generated in commercial or institutional kitchens, laundries or car washes which has passed through the customer's grease trap and/or sand trap, provided that such wastewater does not contain any prohibited sewage.

Out-of-pocket costs means all direct costs incurred by the village for a particular effort, including, but not limited to, materials, contracts, engineering, legal services, land, easements, salary for village employees, plus ten percent of all of these costs. Salary costs shall include all statutory and customary benefits and burdens.

pH means the logarithm to the base ten of the reciprocal of the weight of hydrogen ions in grams per liter in solution.

Pressure service lateral means the village's pressure pipe within the public right-of-way from the pressure service line at the customer's property line to the pressure wastewater line.

Pressure service line means the village's pressure pipe from the grinder pumping unit to the pressure wastewater line, including associated valves and appurtenances.

Pressure wastewater line means the village's pressure wastewater collection and transmission pipelines into which sewage is received from pressure service lateral and through which sewage is transported to the village's regional wastewater lift station. The term "pressure wastewater line" includes valves and appurtenances on these lines.

Private sewage disposal unit means a privately-owned sewage disposal facility which meets all the requirements of the state environment department and serves a property/facility which is in compliance with the village's zoning regulations.

Prohibited sewage means any wastewater containing prohibited substances or characteristics prohibited by this article.

Prohibited substances means any substance, material, chemical or compound the discharge of which to the wastewater system is prohibited by this article or any substance, material, chemical or compound in the customer's wastewater in concentrations greater than those allowed by this article.

Regional wastewater lift station means the village's facility which receives sewage from pressure wastewater lines and gravity wastewater lines. This regional wastewater lift station pumps wastewater through a force main from the lift station site to the eastern portion of the City of Albuquerque's wastewater collection system. As part of the original construction of these facilities, gravity sewer lines were constructed east from the lift station to provide sewer service to users along Highway 66 north of the Tijeras Arroyo and to the Albuquerque Public School facilities. These initial facilities were constructed and have been operated through a Joint Powers Agreement between the City of Albuquerque, Bernalillo County and APS. The village approved this agreement but was not actually a party to it. The village was allocated 100,000 gallons per day of capacity in the lift station.

Residential customer means any customer receiving service for a single-family residence or single-family dwelling unit with a single kitchen facility which is receiving water from a Village water meter which only serves that single-family residence/single-family dwelling unit or from its own independent water supply.

Sand trap means a water operator/contractor approved, customer provided and maintained device designed to remove sand, grit and mud from the customer's wastewater.

Septage means any contents or material from a septic tank, cesspool, leach field, privy or vault privy.

Service means a customer is connected to the wastewater system or a building/property could be connected to the wastewater system.

Sewage means all domestic sewage and other permitted sewage.

Single grinder pumping unit means a grinder pumping unit having one grinder pump.

Slug means any customer discharge of wastewater to the wastewater system which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes five times the average 24-hour concentration or flow from that customer.

Standard methods means the laboratory procedures set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Works Association, the American Water Works Association and the Water Environment Federation.

TDS means total dissolved solids as determined by Standard Methods.

TSS means total suspended solids as determined by Standard Methods.

Wastewater system means the sewage collection disposal system owned and operated by the village, including grinder pump units.

(Ord. No. 180, § 1-4, 6-22-2020)

Sec. 24-263. Unauthorized disposal.

(a) Except as specifically provided hereinafter in this article, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended for the disposal of sewage or prohibited sewage.

(b) It shall be unlawful to discharge to any natural outlet, to the ground or to groundwater any sewage, prohibited sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(Ord. No. 180, § 1-7, 6-22-2020)

Sec. 24-264. Private sewage disposal.

(a) Private sewage disposal may be used for a building prior to the connection of such building to the wastewater system being required under subsequent provisions of this article.

(b) Private sewage disposal shall be accomplished with a private sewage disposal unit. The owner of a private sewage disposal unit shall operate and maintain the unit in a sanitary manner, at all times.

(c) When a property served by a private sewage disposal unit is connected to the wastewater system, within ten days of the connection to the wastewater system the private sewage disposal unit shall:

- (1) Have its contents removed and disposed of in accordance with state requirements; and
- (2) Be removed from the property; or
- (3) Be filled with uncontaminated sand or gravel, in accordance with the Uniform Plumbing Code or village standards.

(d) The provisions of this article for private sewage disposal shall not limit or be construed to interfere with any reasonable requirements that may be imposed by a health officer.

(Ord. No. 180, § 1-8, 6-22-2020)

Sec. 24-265. Penalty.

Any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed \$500.00 or imprisonment not to exceed ten days. In addition to such penalties, the village attorney shall have the authority to apply to the district court for the purposes of obtaining an order restraining any person from violating any of the provisions of this article.

(Ord. No. 180, § 1-27, 6-22-2020)

Secs. 24-266—24-293. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 24-294. Water operator.

(a) The water operator shall serve under the direction of the village manager/clerk.

(b) The water operator shall supervise and manage the wastewater system, including construction, installation, operation, maintenance, repair, replacement, ordinance enforcement, and other duties in connection with the wastewater system as the village council and village manager/clerk may prescribe from time to time.

(Ord. No. 180, § 1-5, 6-22-2020)

Sec. 24-295. Management, rules, regulations and standards.

The village shall make and enforce such rules, regulations and standards as it may deem necessary for the safe, efficient and economical management of the wastewater system. Any construction and connection to the wastewater system shall be in compliance with the requirements and standards of this article and with the village's planning and zoning regulations, which are incorporated into and made part of this article.

(Ord. No. 180, § 1-6, 6-22-2020)

Sec. 24-296. Connection required.

(a) *Conditions.* The owner of each lot or parcel of real property within the village limits shall connect to the wastewater system if the wastewater system is within 200 feet of the lot or parcel and if one of the following conditions occurs:

- (1) A new building or structure is constructed on an undeveloped lot and use of the new building or structure generates wastewater;
- (2) An existing building or structure, which is served by an existing private sewage disposal unit, is removed from the property or demolished and is replaced by a new structure that is required to be placed on a permanent foundation and which generates wastewater;
- (3) An existing private sewage disposal unit has failed and needs repair or replacement as determined by the state environment department; or

(4) An existing building or structure, which is serviced by a private sewage disposal unit, is remodeled or repaired in such a manner that the drain field would have to be expanded, as required by the state environment department. In such a case, the entire structure would have to be served by the wastewater system.

(b) *Owner's duties.* The owner of such a property must:

(1) Submit an application with payment.

(2) Connect to the wastewater system within ten days of the date of the wastewater grinder pump installation.

(c) *Right-of-way.* No installation will be made that is not within the village right-of-way or within the limits of a right-of-way permit which is held in the name of the village. It shall be the responsibility of the customer or customers extending the main to obtain all right-of-way and utility permits. The village, at its option, may require the customer to obtain a right-of-way certification from a qualified attorney and/or surveyor, such right-of-way is to be dedicated and accepted by the village prior to any type of utility installation.

(d) *Ownership.* Upon completion and acceptance by the village of the wastewater main and appurtenances, all material within the public right-of-way or a utility easement shall become the property of the village.

(Ord. No. 180, § 1-9, 6-22-2020)

Sec. 24-297. Application for connection.

An application shall be required from all applicants. An application shall include:

(1) For all applicants:

- a. Completed application form;
- b. All required fees; and
- c. Easement documentation.

(2) For applicants who will be commercial customers: Other information deemed necessary by the water operator so the water operator can determine:

- a. The acceptability of the anticipated sewage.
- b. The type and number of grinder pumping units required.
- c. Other requirements for providing service, including, but not limited to, the need for grease traps and sand traps.

(3) For multiple buildings receiving water from a single village water meter, the application shall be submitted by the person responsible for the water service.

(4) The water operator may undertake such investigations and require such information from an applicant about the applicant's facilities and proposed discharges to the wastewater system as the water operator deems reasonably necessary to:

- a. Verify compliance with this article and village's standards;

- b. Verify appropriateness of the applicant's requested location for the grinder pumping unit, control panel and pressure service line;
- c. Verify that any special requirements, such as, but not limited to, grease traps or sand traps are installed by the applicant and are operational; and
- d. Determine service is available.

(Ord. No. 180, § 1-10, 6-22-2020)

Sec. 24-298. Responsibility for making connections.

(a) For properties where the building was served by a private sewage disposal unit prior to connection to the wastewater system:

- (1) Applicants shall be responsible for:
 - a. Submitting an application.
 - b. Selecting the location for the grinder pumping unit, pressure service line, control panel and wiring between the control panel and the grinder pumping unit, subject to the concurrence of the water operator.
 - c. Uncovering the gravity wastewater line that will be connected to the grinder pumping unit so the village can determine the orientation for the grinder pumping unit's gravity service line connection point.
 - d. Precisely locating and marking horizontally and vertically any customer-owned buried water pipes or other buried improvements prior to the water operator installing the grinder pumping unit and the pressure service line.
 - e. Removing and replacing any fencing required to allow the water operator access for installation of the grinder pumping unit or the pressure service line.
 - f. Restoring landscaping, ground surface material and any other customer-owned improvements required as a result of the village's installation of the grinder pumping unit or pressure service line.
 - g. Selecting the applicant's licensed electrician (or obtaining a homeowner's permit from the county for the required electrical work).
 - h. Having the applicant's licensed electrician (or accomplished by the applicant under a county homeowner's permit) install the control panel and associated wiring from the control panel to the grinder pumping unit in accordance with applicable codes and village standards (requires a county inspection).
 - i. Selecting the applicant's licensed plumber (or obtaining a homeowner's permit from the county for the required plumbing work).
 - j. Having the applicant's licensed plumber (or accomplished by the applicant under a county homeowner's permit):
 1. Connect the gravity service line to the grinder pumping unit in accordance with applicable codes and village standards (requires water operator inspection).

2. Arrange for the water operator to activate the grinder pumping unit.
 3. Provide additional efforts as necessary if the grinder pumping unit cannot be activated when planned.
- (2) The village manager/clerk shall be responsible for:
- a. Preparing the application forms and giving them to the water operator.
 - b. Billing the applicant or customer for any special charges incurred in installation of the grinder pumping unit or pressure service line.
 - c. Beginning monthly billing to the customer when the application is returned, indicating the customer is connected to the wastewater system, or ten days after the grinder pumping unit has been installed, whichever comes first.
- (3) The water operator shall be responsible for:
- a. Verifying that the applicant's proposed locations for the grinder pumping unit, control panel and pressure service line are in conformance with this article and village standards.
 - b. Installing the grinder pumping unit, pressure service line and pressure service lateral.
 - c. Connecting the pressure service line to the grinder pumping unit, connecting the pressure service line to the pressure service lateral, and connecting the pressure service lateral to the pressure wastewater line.
 - d. Determining if any special charges are to be paid by the customer for installation and informing the village manager/clerk of such charges.
 - e. Verifying the grinder pumping unit and control panel are operating properly.
 - f. Verifying any water meters, grease traps, sand traps or other facilities required by this article or as a condition of providing service are installed and operating properly.
- (b) For properties where the building was not served by a private sewage disposal unit prior to connection to the wastewater system:
- (1) Applicants shall be responsible for:
- a. Submitting an application.
 - b. Having the building designed and constructed to allow installation of a grinder pumping unit, control panel and pressure service line in accordance with village standards and applicable codes.
 - c. Selecting the location for the grinder pumping unit, pressure service line, control panel and wiring between the control panel and the grinder pumping unit, subject to the concurrence of the water operator.
 - d. Selecting the applicant's licensed electrician (or obtaining a homeowner's permit from the state for the required electrical work).

- e. Having the applicant's licensed electrician (or accomplished by the applicant under a county homeowner's permit) install the control panel and associated wiring from the control panel to the grinder pumping unit in accordance with applicable codes and village standards (requires a county inspection).
 - f. Selecting the applicant's licensed plumber (or obtaining a homeowner's permit from the county for the required plumbing).
 - g. Having the applicant's licensed plumber (or accomplished by the applicant under a county homeowner's permit):
 1. Connect the gravity service line to the grinder pumping unit in accordance with applicable codes and village standards (requires water operator inspection).
 2. Arrange for the water operator to activate the grinder pumping unit.
- (2) The village manager/clerk shall be responsible for:
- a. Preparing the application forms and giving them to water operator.
 - b. Billing the applicant/customer for any special charges incurred for the grinder pumping unit provided by the village or for the inspection of the installed grinder pumping unit, pressure service line or control panel.
 - c. Beginning monthly billing to the customer when the application is returned, indicating the customer is connected to the wastewater system, or ten days after the grinder pumping unit has been installed, whichever comes first.
- (3) The water operator shall be responsible for:
- a. Verifying that the applicant's proposed locations for the grinder pumping unit, control panel and pressure service line are in conformance with this article and village standards.
 - b. Installing the grinder pumping unit and installing the pressure service lateral and connecting to the pressure wastewater line unless such was provided by the subdivision developer under the terms of this article.
 - c. Determining if any special charges are to be paid by the applicant/customer for installation and informing the village manager/clerk of such charges.
 - d. Verifying the grinder pumping unit and control panel are operating properly.
 - e. Verifying any water meters, grease traps, sand traps or other facilities required by this article or as a condition of providing service are installed and operating properly.

(Ord. No. 180, § 1-12, 6-22-2020)

Secs. 24-299—24-329. Reserved.

DIVISION 3. BILLING, FEES, RATES AND CHARGES

Sec. 24-330. Connection fees.

Connection fees and all associated fees shall be determined by the village council through a resolution and are on file in the village clerk's office.

(Ord. No. 180, § 1-19, 6-22-2020)

Sec. 24-331. Wastewater system use fees.

Wastewater system use fees and all associated fees shall be determined by the village council through a resolution and are on file in the village clerk's office.

(Ord. No. 180, § 1-20, 6-22-2020)

Sec. 24-332. Special charges.

The village manager/clerk may assess special charges to a customer for any out-of-pocket costs incurred by the village beyond the normal costs the village incurs in providing service to similar customers. Special charges shall be made for, but are not limited to, these situations:

- (1) Costs associated with sampling, analyzing and evaluating the customer's wastewater and the effect of such wastewater on the wastewater system when such wastewater is found to be prohibited sewage and thereafter for verification of compliance with this article as the water operator deems appropriate.
- (2) Costs associated with repairing or replacing components of the wastewater system which are damaged or destroyed by the actions of the customer or by any of the customer's wastewater discharged to the wastewater system.
- (3) Costs associated with restoring a salvaged grinder pumping unit to reusable condition or replacing the grinder pumping unit if a unit is no longer in use due to the customer requiring a larger unit or requesting a unit be relocated on the served property.
- (4) Costs associated with more than a single inspection of work performed or components installed by an applicant's licensed electrician and/or an applicant's licensed plumber.
- (5) Costs beyond routine inspections associated with verifying compliance with the grease trap and sand trap requirements of this article.
- (6) Costs associated with inspection of the pressure wastewater lines and pressure service laterals installed by a subdivision developer.
- (7) Costs associated with enforcing this article.

(Ord. No. 180, § 1-21, 6-22-2020)

Sec. 24-333. Delinquencies and disconnections.

(a) If any customer fails to pay the monthly wastewater charges within 20 days after the date of mailing of the monthly bill, a charge of ten percent of the monthly wastewater billing shall be assessed to the unpaid, delinquent amount to cover the associated costs and charges in maintenance and administrative costs for the delinquent account.

(b) If any fee, charge or penalty for wastewater service remains unpaid 40 days after the monthly bill has been mailed, the village may disconnect a customer's water service and/or disconnect or make inoperable the customer's grinder pumping unit. Prior to discontinuing service, the village shall provide ten days written notice to the customer.

(c) The village manager/clerk shall hear any appeal or complaint and shall be the final authority regarding delinquent bills and may decide service will be continued for not more than an additional 30 days before service is discontinued. If such a continuance is allowed, no additional notice will be necessary for the village to discontinue service if the bill, or any subsequent bill, is still delinquent.

(d) When water and/or wastewater service has been discontinued due to delinquent payment, water/wastewater service shall not be restored to the property and/or customer until all arrears in charges have been paid, together with a processing fee in an amount on file in the village offices. Once the charges have been paid, water/wastewater service will be restored during regular business hours. In the event a customer relocates within the village, leaving a delinquent water/wastewater bill at his/her previous residence, water/wastewater service at his/her new location will not be provided until the delinquent charges from service at his previous address have been paid.

(Ord. No. 180, § 1-22, 6-22-2020)

Sec. 24-334. Discontinuation of wastewater service.

(a) Service shall not be terminated to any occupied property in response to customer's request after a grinder pumping unit has been installed.

(b) Service may be temporarily (not to exceed three months) terminated only to unoccupied or otherwise vacant properties such as rental units, mobile homes moving on or off of properties, etc. Should the customer demonstrate to the village manager/clerk that an economic hardship exists, a time extension may be granted.

(c) Upon receipt of a written statement by the owner of a lot or parcel of property which has previously been connected to the public wastewater system that there is no longer any building or structure for human occupation or use or for any business purpose located thereon and that the toilet and other facilities therein have been removed, disconnected and properly plugged from the village wastewater system, and upon inspection by the water operator or his designated representative to ascertain that the statement is true, the wastewater charges shall cease as of the first day of the following month. The water operator or his designated representative shall remove the motor from the grinder pumping unit.

(d) Service shall be restored once the property has been reoccupied.

(Ord. No. 180, § 1-23, 6-22-2020)

Sec. 24-335. Notices.

When the village is required by this article to notify a customer or potential customer, such notice shall be deemed to have been made if the village:

- (1) Hand delivers a notice to the customer's served property;
 - (2) Includes a notice with the customer's water bill mailed to the customer; or
 - (3) Mails a notice to the customer by first class mail.
- (Ord. No. 180, § 1-24, 6-22-2020)

Sec. 24-336. Forms and standards.

(a) The village administration may develop, use and revise forms for the administration and implementation of this article. An indexed copy of the latest edition of the forms shall be maintained at the village for public inspection.

(b) The village administration may develop, use, revise and enforce standards for the design and construction of the wastewater system and for the materials to be used as part of the wastewater system. An indexed copy of the latest edition of the standards shall be maintained at the village offices for public inspection.

(c) Size and number of grinder pumping units required.

- (1) The following are customers which may have a single grinder pumping unit:
 - a. Residential customers.
 - b. Commercial customers:
 1. Whose rest rooms are only used by employees.
 2. Who do not have kitchens.
 3. Who have ten or less total full-time equivalent employees.
 4. Who do not use water for any processes, wash down, food processing or industrial activities.
 5. Whose maximum water use has been (or is expected to be) less than 15,000 gallons per month during any month.
- (2) The following customers are required to have at least one double grinder pumping unit:
 - a. Any commercial customer which does not qualify for a single grinder pumping unit as given in subsection (c)(1)b of this section.
 - b. Any:
 1. Restaurant or bar.
 2. Church.
 3. Motel, hotel or bed-and-breakfast establishment.
 4. School.
 5. Day-care facility.

6. Business or institution having rest rooms available to customers, patrons or clients.
 7. Vehicle service stations.
 8. Vehicle and mechanical equipment repair facilities.
- (3) The following customers are required to have more than one double grinder pumping unit: Any commercial customer whose maximum water use has been (or is expected to be) more than 25,000 gallons during any month. The number of double grinder pumping units required shall be one for every 25,000 gallons of water use (or fraction of 25,000 gallons) per month. The arrangement of the customer's building drainage lines and gravity service lines shall be such that generally equivalent flows will be directed to each unit.
 - (4) If a customer's use of the served building will be changed so that by this requirement an increase in the number or size of grinder pumping units would be required, the customer shall submit an application for the larger or additional grinder pumping units not less than 60 days prior to such change.
 - (5) If a customer's water use is found to be, or increases, so that, by this requirement, an increase in the number or size of grinder pumping units would be required, the water operator shall notify the customer that a larger or additional grinder pumping unit is required. The customer shall submit an application with payment for the larger or additional grinder pumping units within 60 days of the date of such notice and shall connect such additional units within 60 days of the date.
 - (6) No waiver shall be made for the maximum gallons-per-month limitations given in this requirement unless the applicant can adequately demonstrate to the water operator's satisfaction that a single high month of water use was the result of a break in the applicant's plumbing system and the escaping water would not have entered the wastewater system if the applicant had been connected to the wastewater system or did not enter the wastewater system if the applicant was connected to the wastewater system. Such a waiver shall not be given more than once for any served property. The water operator shall be the final authority in determining if such a waiver shall be given.
 - (7) If a customer has a single grinder pumping unit, but due to a change in use of the served building or due to actual water use being higher than allowed for a single grinder pumping unit one double grinder pumping unit is required, the water operator may allow the installation of a second single grinder pumping unit, provided that the water operator is satisfied the customer's sewage will be directed reasonably equally between the two single grinder pumping units.

(Ord. No. 180, § 1-25, 6-22-2020)

Sec. 24-337. Additional remedy.

Any charge by this article shall be payable either by the customer or by the occupant of the served property to which service is furnished. In addition to any other remedy which may be authorized by this article, the village shall have a lien upon the tract of land being served by the system for delinquent charges. The lien shall be imposed and enforced in the manner provided in NMSA 1978, §§ 3-35-1 through 3-35-5. Exceptions to this section are provided in NMSA 1978, § 3-23-6(C).

(Ord. No. 180, § 1-28, 6-22-2020)

Secs. 24-338—24-362. Reserved.

DIVISION 4. STANDARDS

Sec. 24-363. Sand traps and grease traps.

(a) Grease traps.

- (1) Grease traps shall be installed and maintained in the gravity service lines leading to all double grinder pumping units with the exception of subsection (2) of this section.
- (2) Grease traps shall not be required for double grinder pump units, which only serve multiple single-family residential dwelling units.

(b) Sand traps shall be installed and maintained in the gravity service lines leading to grinder pumping units serving car washes, schools, day-care facilities, commercial laundries and laundromats.

(c) Should the water operator inspection of a grinder pumping unit indicate excessive grease, oil, sand or mud, the water operator shall give the customer notice, and the customer shall install the new and/or additional sand traps and/grease traps required by the water operator within 60 days of the notice.

(d) Customers shall operate and maintain grease traps and sand traps to prevent any accumulated grease, oil, sand or mud from being discharged to the wastewater system.

(e) The water operator shall periodically inspect grease traps and sand traps to verify compliance with this article. Customers shall allow reasonable access to grease traps and sand traps for inspection and monitoring.

(Ord. No. 180, § 1-11, 6-22-2020)

Sec. 24-364. Customer's continuing responsibilities.

The customer shall continue to be responsible for:

- (1) Removing and replacing any fencing required to allow the water operator access for repair or replacement of the grinder pumping unit or the pressure service line.
- (2) Restoring landscaping, ground surface material and any other customer-owned improvements required as a result of the water operator's maintenance, repair or replacement of the grinder pumping unit or pressure service line.
- (3) Preventing damage to the installed grinder pumping unit and pressure service line.
- (4) Providing electricity for the operation of the grinder pumping unit and maintaining customer owned wiring up to the control panel.
- (5) Monitoring the grinder pumping unit's alarm device and notifying the village of all alarms.
- (6) Observing the grinder pumping unit for visible or other noticeable indications of unit failure, improper operation or damage and notifying the village of such indications.
- (7) Maintaining site grading, drainage and irrigation so surface water does not accumulate within four feet of the grinder pumping unit.

- (8) Maintaining landscaping so the control panel and grinder pumping unit are easily visible and assessable.
 - (9) Complying with this article.
- (Ord. No. 180, § 1-13, 6-22-2020)

Sec. 24-365. Requirements for new land subdivisions.

The requirements in this section apply to all subdivisions which do not have final plat approval prior to April 1, 2020.

- (1) The subdivision plat shall include dedication of an easement for each lot.
 - (2) The subdivision shall be designed and constructed so the requirements subsequently given in this article for new buildings can be readily accomplished.
 - (3) The subdivision developer shall install all pressure wastewater lines and all pressure service laterals within the subdivision required to serve all lots and dedicate such lines to the village upon the village's acceptance. The installed pressure wastewater lines and pressure service laterals shall include required appurtenances, shall be constructed in accordance with the village's standards, shall be constructed in accordance with engineered construction drawings approved by the water operator and shall be subject to the inspection and approval of the village manager/clerk.
 - (4) The subdivision developer shall prepay the village for 120 percent of the estimated out-of-pocket costs the water operator estimates the village will incur in designing and installing all pressure wastewater lines outside of the subdivision required to serve the subdivision. When installation of the lines is completed by the village, the village will reimburse the developer for any portion of the prepayment not incurred by the village or the developer shall pay the village for any costs incurred above the prepayment.
 - (5) The location and size of all pressure wastewater lines shall be in accordance with the village comprehensive master plan if indicated therein. If the location and size of the pressure wastewater lines is not indicated in the village comprehensive master plan, the water operator shall determine the size and location to serve all future customers that could be served by the lines. The water operator shall be the final authority in making such determination.
- (Ord. No. 180, § 1-14, 6-22-2020)

Sec. 24-366. Requirements for new buildings.

These requirements apply to buildings for which building permits are not issued prior to July 1, 2019.

- (1) Buildings shall be designed and constructed so:
 - a. The control panel is installed (or can be installed if not installed prior to building being occupied) within 50 feet of the grinder pumping unit and so it is visible from the adjacent pressure wastewater line to which the building is (or will be) connected.

- b. The building's gravity service line can be connected to a grinder pumping unit at an invert elevation so that for:
 1. A single grinder pumping unit, the gravity service line shall not be more than 35 inches below the finished ground surface where the unit will be installed.
 2. A double grinder pumping unit, the gravity service line shall not be more than 50 inches below the finished ground surface where the unit will be installed.
 - (2) On a case-by-case basis, the water operator may modify these requirements if the application would be impractical for a particular building. If so modified, the customer shall reimburse the village for any additional out-of-pocket costs the village incurs in allowing the modification. Such out-of-pocket costs shall include costs associated with allowing gravity service line depths deeper than indicated above. The water operator shall be the final authority as to what modification, if any, to allow.
- (Ord. No. 180, § 1-15, 6-22-2020)

Secs. 24-367—24-390. Reserved.

DIVISION 5. SEWER USE REGULATIONS

Sec. 24-391. Sewage characteristics.

- (a) No person shall discharge anything but sewage into the wastewater system.
- (b) No person shall discharge any drainage water, prohibited sewage or prohibited substances into the wastewater system.
- (c) Prohibited sewage is wastewater which:
 - (1) Contains prohibited substances.
 - (2) Has a pH less than 5.5 or greater than 1.5.
 - (3) Has a corrosive property capable of causing damage to any portion of the wastewater system.
 - (4) Is discharged as a slug.
 - (5) Includes unpolluted waters.
 - (6) Has a temperature higher than 150 degrees Fahrenheit.
 - (7) Causes interference with the regional wastewater lift station.
 - (8) Has been diluted to reduce the concentration of toxic materials or prohibited substances.
- (d) Prohibited substances include:
 - (1) BOD greater than 300 milligrams per liter.
 - (2) COD greater than 400 milligrams per liter.
 - (3) TSS greater than 300 milligrams per liter.
 - (4) TDS greater than 200 milligrams per liter more than the TDS found in the village water system.

- (5) Fats, grease, wax or oils, whether emulsified or not, in excess of 100 milligrams per liter.
- (6) Any of the following metals in concentrations greater than 115 percent of the concentration found in the village water system: antimony, arsenic, barium, beryllium, bismuth, boron, cadmium, chromium (hexa and tri), cobalt, copper, iron, lead, manganese, mercury, molybdenum, nickel, rhenium, selenium, silver, strontium, tellurium, tin, uranyl ion, zinc.
- (7) Gasoline, benzene, naphtha, fuel oil, diesel fuel or other flammable or explosive liquid, solid or gas.
- (8) Motor oil.
- (9) Antifreeze.
- (10) Herbicides or pesticides.
- (11) Septage.
- (12) Toxic or poisonous solids, liquids or gases (in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater facility, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the regional wastewater lift station's receiving water.
- (13) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in grinder pumping units, pressure service lines or pressure wastewater lines or causing interference with the proper operation of the wastewater system. These substances include, but are not limited to, ashes, cinders, sand, mud, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, manure, hair, entrails, paper dishes, paper cups, milk containers, plastic eating utensils, and straws, either whole or ground by garbage grinders.
- (14) Substances, which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.
- (15) Garbage that has not been properly shredded.
- (16) Garbage from any shredder or grinder larger than those normally manufactured and sold for residential and noncommercial use or from more than one shredder or grinder discharging to a grinder pumping unit.
- (17) Substances which are not amenable to treatment or reduction by the City of Albuquerque's wastewater collection system such that the treated water or residuals do not meet applicable legal or regulatory requirements.
- (18) Waters or wastes from vehicle repair facilities, industrial facilities, equipment repair facilities, or from any other commercial or institutional facility or operation which could generate any process, spill or wash-down wastewater, with the exception that strictly domestic sewage and/or permitted sewage can be discharged from such facilities if the customer's facilities and drainage arrangements provide positive physical protection so other waters or wastes cannot reach the customer's gravity service line.

(Ord. No. 180, § 1-16, 6-22-2020)

Sec. 24-392. Damage to wastewater system; excavations.

(a) It shall be unlawful for any person to remove or damage any part of the wastewater system, or to excavate any street, alley, sidewalk or easement without the permission of the water operator.

(b) The wastewater system is hereby classified as high profile, which requires an excavation permit and line exposure when working within five feet of the wastewater system.

(c) Any person or utility company is required to obtain an excavation permit from the village for all work requiring an excavation of any kind. The village shall provide the permission on the same day that the actual excavation will occur. The utility company shall notify the village when a crew is on its way to allow the village utility department personnel to be present to approve the excavation.

(d) Should any excavation occur inside the village limits without excavation permission, the village may impose an administrative charge in an amount on file in the village offices.

(e) Any damage to the wastewater system caused during excavation without permission will result in an administrative fee in an amount on file in the village offices plus the cost of the repair and/or replacement to the wastewater system.

(f) Any damage to the wastewater system caused during excavation with permission as a result of negligence will result in a charge in an amount on file in the village offices plus the cost of the repair and/or replacement to the wastewater system.

(g) On or after June 22, 2020, telephone and cable television lines shall be installed at a depth of 24 inches within the right-of-way.

(Ord. No. 180, § 1-17, 6-22-2020)

Sec. 24-393. Emergency shutoff to repair system.

The water operator shall have the right at any time, without notice, to shut off any grinder pumping unit and/or any pressure wastewater line for the purpose of necessary repairs. In that event, the village shall not be liable for any damages occasioned by the interruption of wastewater service.

(Ord. No. 180, § 1-18, 6-22-2020)

Chapter 25

RESERVED

Chapter 26

ZONING*

Article I. In General

- Sec. 26-1. Title.
- Sec. 26-2. Purpose.
- Sec. 26-3. Jurisdiction.
- Sec. 26-4. Interpretation.
- Sec. 26-5. Definitions.
- Sec. 26-6. Penalties.
- Secs. 26-7—26-32. Reserved.

Article II. Administration

Division 1. Generally

- Sec. 26-33. Administrative official.
- Sec. 26-34. Inspection.
- Sec. 26-35. Information and records.
- Sec. 26-36. Records review.
- Sec. 26-37. Violations, complaints and notification.
- Sec. 26-38. Subcontractors.
- Sec. 26-39. Vendors.
- Secs. 26-40—26-66. Reserved.

Division 2. Process, Planning and Review

- Sec. 26-67. Review and approval for erecting building or altering building footprint.
- Sec. 26-68. Final approvals.
- Secs. 26-69—26-94. Reserved.

Division 3. Zone Change

- Sec. 26-95. Authority to amend.
- Sec. 26-96. Application.
- Sec. 26-97. Notification by mail.
- Sec. 26-98. Planning and zoning commission review.
- Sec. 26-99. Commission recommendation for approval or denial.
- Sec. 26-100. Public hearing.
- Sec. 26-101. Decision.
- Sec. 26-102. Mayoral review.
- Sec. 26-103. County review and processing.
- Sec. 26-104. Zone map updated.
- Secs. 26-105—26-121. Reserved.

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

TIJERAS CODE

Division 4. Plan Requirements

- Sec. 26-122. Application legibility; review fee.
- Sec. 26-123. Planning.
- Sec. 26-124. Construction.
- Sec. 26-125. Remodeling.
- Sec. 26-126. Roadway access.
- Sec. 26-127. Traffic impact analysis.
- Sec. 26-128. Additional plan requirements for CB-1, CB-2, G/I and SU Zones.
- Sec. 26-129. Sunset clause.
- Secs. 26-130—26-156. Reserved.

Division 5. Variance

- Sec. 26-157. Variance approval.
- Sec. 26-158. Variance denial.
- Sec. 26-159. Variance approval criteria.
- Sec. 26-160. Additional conditions.
- Secs. 26-161—26-186. Reserved.

Division 6. Conditional Use

- Sec. 26-187. Approval by the village council.
- Sec. 26-188. Application.
- Sec. 26-189. Review process for conditional use.
- Sec. 26-190. Guidelines.
- Sec. 26-191. Expiration.
- Secs. 26-192—26-220. Reserved.

Division 7. Appeals

- Sec. 26-221. Right to appeal.
- Sec. 26-222. Application.
- Sec. 26-223. Public hearing.
- Sec. 26-224. Stay of proceedings.
- Sec. 26-225. Decision.
- Sec. 26-226. Appeal to district court.
- Secs. 26-227—26-245. Reserved.

Division 8. Annexation

- Sec. 26-246. Annexation permitted.
- Sec. 26-247. Request for annexation.
- Secs. 26-248—26-272. Reserved.

Division 9. Fees and Charges

- Sec. 26-273. General provision.
- Sec. 26-274. Fees.
- Sec. 26-275. Change by resolution.
- Secs. 26-276—26-298. Reserved.

ZONING

Article III. Nonconformities

Division 1. Generally

Secs. 26-299—26-329. Reserved.

Division 2. Nonconforming Uses

Sec. 26-330. General scope and intent.

Sec. 26-331. Expansion.

Sec. 26-332. Abandonment.

Sec. 26-333. Nonconforming lot size.

Secs. 26-334—26-354. Reserved.

Article IV. Zones and Regulations

Division 1. Generally

Sec. 26-355. Provisions applicable to all zones.

Sec. 26-356. Zoning map.

Secs. 26-357—26-385. Reserved.

Division 2. Residential Zone 1 (R-1)

Sec. 26-386. Intent and purpose.

Sec. 26-387. Mobile home installation.

Sec. 26-388. Permissive uses.

Sec. 26-389. Conditional uses.

Sec. 26-390. Lot size.

Sec. 26-391. Setback requirements.

Secs. 26-392—26-410. Reserved.

Division 3. Residential Zone 2 (R-2)

Sec. 26-411. Intent.

Sec. 26-412. Mobile home installation.

Sec. 26-413. Permissive uses.

Sec. 26-414. Conditional uses.

Sec. 26-415. Lot size; setback requirements.

Secs. 26-416—26-443. Reserved.

Division 4. Commercial, Industrial, and Government/Institutional Zones

Sec. 26-444. Applicability.

Sec. 26-445. General preservation; compliance.

Sec. 26-446. Compatibility of property uses.

Sec. 26-447. Preservation of land character and integrity.

Sec. 26-448. Zoning areas not to become a detriment.

Sec. 26-449. Inclusion of traffic impact analysis.

Secs. 26-450—26-466. Reserved.

TIJERAS CODE

Division 5. Commercial Business Zone 1 (CB-1)

- Sec. 26-467. Intent.
- Sec. 26-468. Minimum lot size.
- Sec. 26-469. Permissive uses.
- Sec. 26-470. Conditional uses.
- Sec. 26-471. Development plan requirements.
- Secs. 26-472—26-495. Reserved.

Division 6. Large Commercial Zone 2 (CB-2)

- Sec. 26-496. Intent.
- Sec. 26-497. Minimum lot sizes.
- Sec. 26-498. Permissive uses.
- Sec. 26-499. Conditional uses.
- Sec. 26-500. Large commercial development plans and requirements.
- Secs. 26-501—26-523. Reserved.

Division 7. Industrial/Manufacturing/Service Zone 1 (I/M-3)

- Sec. 26-524. Intent.
- Sec. 26-525. Minimum lot size.
- Sec. 26-526. Water use limits.
- Sec. 26-527. Permissive uses.
- Sec. 26-528. Conditional uses.
- Sec. 26-529. Development plan requirements.
- Secs. 26-530—26-551. Reserved.

Division 8. Government/Institutional Zone (G/I)

- Sec. 26-552. Intent.
- Sec. 26-553. Compliance.
- Sec. 26-554. Special use zone approval process.
- Sec. 26-555. Lot size.
- Sec. 26-556. Setback requirements.
- Secs. 26-557—26-577. Reserved.

Division 9. Special Use Zone (S-U)

- Sec. 26-578. Intent.
- Sec. 26-579. Defined.
- Sec. 26-580. Special conditions.
- Sec. 26-581. Requirements for zone change.
- Sec. 26-582. Special uses authorized.
- Sec. 26-583. Removal of zones.
- Secs. 26-584—26-614. Reserved.

Article V. Supplementary District Regulations

Division 1. Generally

- Sec. 26-615. Access to structures.

ZONING

- Sec. 26-616. Water and wastewater facilities.
- Sec. 26-617. Refuse disposal and salvage material control.
- Sec. 26-618. Professional services.
- Sec. 26-619. Storage tanks.
- Sec. 26-620. Water storage tanks.
- Sec. 26-621. Fire sprinklers.
- Sec. 26-622. Mobile food units.
- Sec. 26-623. Towers.
- Sec. 26-624. Overnight and drive through vendors.
- Sec. 26-625. Inoperable vehicles.
- Secs. 26-626—26-653. Reserved.

Division 2. Height

- Sec. 26-654. Height regulations of buildings and structures.
- Secs. 26-655—26-681. Reserved.

Division 3. Signs

- Sec. 26-682. Residential zones.
- Sec. 26-683. Commercial, special use, and government zones.
- Sec. 26-684. Banners.
- Secs. 26-685—26-711. Reserved.

Division 4. Lighting

- Sec. 26-712. Fixture compliance.
- Secs. 26-713—26-737. Reserved.

Division 5. Roads and Roadways

- Sec. 26-738. Development, approval and access to state roadways.
- Sec. 26-739. Access authorization.
- Secs. 26-740—26-761. Reserved.

Division 6. Off-Street Parking and Loading

Subdivision I. In General

- Secs. 26-762—26-790. Reserved.

Subdivision II. Off-Street Parking

- Sec. 26-791. Requirements for new building or structure.
- Sec. 26-792. Ground space availability.
- Sec. 26-793. Designation of parking.
- Sec. 26-794. Paved parking areas; dirt or gravel parking areas.
- Sec. 26-795. Required parking spaces.
- Sec. 26-796. Parking design standards.
- Secs. 26-797—26-815. Reserved.

TIJERAS CODE

Subdivision III. Off-Street Loading Requirements

Sec. 26-816. Provision and maintenance of loading space.
Secs. 26-817—26-840. Reserved.

Division 7. Home Business

Sec. 26-841. Permit requirement.

ARTICLE I. IN GENERAL**Sec. 26-1. Title.**

This chapter shall be known as the "Comprehensive Zoning Ordinance" of the village.
(Ord. No. 190, § I(A), 8-10-2020)

Sec. 26-2. Purpose.

This chapter is intended to help achieve the goals and objectives of the comprehensive master plan and is viewed as a vital tool for accomplishing that plan. Thus, the regulations and restrictions of this chapter are designed to avoid congestion in the streets and public ways; to secure safety from fire, flood, and other dangers; to promote the general welfare of the community; to preserve and conserve local water resources; to prevent the overcrowding of land; to facilitate adequate provisions for transportation, water, wastewater, schools, parks, and other community requirements; to conserve the value of property; and to encourage the most appropriate use of land throughout the village. Development in the village shall not destroy the rural residential character of the village nor shall it adversely affect the community water system, sewer system, fire protection systems, and any other infrastructures adequate to serve the development.

(Ord. No. 190, § I(B), 8-10-2020)

Sec. 26-3. Jurisdiction.

This chapter shall apply to all lands within the municipal boundary of the village, including such lands as may be subsequently annexed to the village. This chapter governs all real property located within the zoning jurisdiction of the village. Boundaries delineating the zoning jurisdiction of the village shall be as indicated on the official zone map of the village, maintained separately from this chapter.

(Ord. No. 190, § I(C), 8-10-2020)

Sec. 26-4. Interpretation.

The provisions of this chapter are held to be minimum requirements to carry out the purpose of this chapter and are not intended to interfere with any other laws, covenants, or ordinances. Whenever any provisions of this chapter are more or less restrictive than other laws, covenants, or ordinances, then whichever is more restrictive shall govern.

(Ord. No. 190, § I(D), 8-10-2020)

Sec. 26-5. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory means subordinate and incidental to a principal use or structure on the same lot.

Apartment means one or more structures for rent or lease containing two or more dwelling units each.

Banners means a temporary sign (not to exceed 90 days) generally made of flexible vinyl and/or canvass like material.

Billboard means a commercial sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

Boardinghouse, roominghouse, lodginghouse, or bed and breakfast means a building other than a hotel or restaurant where lodging, with or without meals, is provided for compensation for one or more persons but not exceeding eight persons.

Building means any structure having a roof supported by columns or walls, and designed or intended for shelter, support, enclosure or protection of persons, animals, or personal property.

Building height means the average of their vertical distances from the finished ground level at the center of all walls of a building to:

- (1) The deck line of a mansard roof;
- (2) The mean height level between the eaves and ridges of a gable, hip, or gambrel roof; or
- (3) The highest point of a flat roof or any roof style not described in this definition.

Business registration means a licensed permit approved and issued by the village for each business operated within its municipal boundaries.

Clinic means an establishment occupied by one or more members of the medical, dental, or veterinary profession for the purpose of providing health services.

Club means any membership organization catering exclusively to members and their guests and whose facilities are limited to meeting, eating, and/or recreational uses, and further whose activities are not conducted for monetary gains, including, but not limited to, civic, fraternal, charitable, religious, social, and patriotic organizations.

Condominium means one or more structures containing two or more dwelling units each that are sold to and held under individual ownership by the occupants, and which may or may not include ownership of the land upon which the dwelling units are situated. The term "condominium" includes town houses, patio houses, and other similar forms of individual ownership.

Contiguous means touching or separated only by a public right-of-way.

Dedicated open space means any open space dedicated by the village's council by ordinance.

Developed lot means a lot containing a permitted permanent structure.

Drainage means discharge or flow of surface water by gravity.

Dwelling, single-family, means a detached dwelling unit in a structure, including a mobile home or tiny home, designed for and occupied by one family only.

Dwelling, multifamily, means a single structure containing two or more dwelling units, including, but not limited to, condominiums and apartments.

Family means one or more persons occupying a single dwelling unit, provided that unless all are related by blood, marriage, or legal adoption, no such family shall contain over five unrelated persons. This provision shall not apply to dwellings for persons who are disabled, as specified in the Americans with Disabilities Act.

Fence or wall means an artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas. Materials used in the construction of a fence or wall shall not pose health or safety hazards to the community and shall not be disruptive to the rural residential character of the village or have an adverse effect on drainage.

Floor area means the total horizontal area of the total number of floors of a building.

Food truck. See *Mobile food unit.*

Frontage means a distance measured along a public right-of-way line.

Garage, commercial, means a building other than a private garage, used for the care or repair of automotive equipment or automobiles, or where such vehicles are parked or stored for payment or sale within the structure.

Garage, private, means any accessory building or portion of a building used for the primary purpose of housing vehicles, which are owned and used by the occupants of the main building.

Grade means the average of the finished ground level at the center of all walls of a building.

Home business means any occupation clearly incidental and secondary to the use of the premises for a dwelling.

Improved lot means a lot that has had additions or upgrades that may add value to the property such as utilities. An improved lot is not necessarily a developed lot.

Inoperable vehicle means any vehicle which, for a period of at least 30 consecutive days, the engine, wheels, tires or other parts have been removed or on which the engine, wheels, tires, or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. A vehicle that is not registered or does not display a current valid license plate and validating sticker shall be deemed inoperable. The term "inoperable vehicle" shall include any parts of a vehicle located separately from a vehicle. A vehicle shall be deemed inoperable when it has one or more flat tires or has one or more missing windshield or window or has one or more windshield or window broken to the extent that visibility is limited to make driving such vehicle unsafe. The term "inoperable vehicle" does not include any motor vehicle that is kept within a building when not in use, nor a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise. The term "inoperable vehicle" does not include a vehicle for which a temporary sticker has been issued.

Lighting fixture, outdoor means an outdoor artificial illuminating device, whether permanent or portable, used for illumination or advertisement, including searchlights, spotlights and floodlights, whether for architectural lighting, parking lot lighting, landscaping lighting, billboards or street lighting (NMSA 1978, § 74-12-3).

Lighting fixture, shielded means a fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted (NMSA 1978, § 74-12-3).

Lot means a parcel or tract of land of sufficient size to meet the minimum requirements of this chapter, platted and recorded with the county clerk in accordance with all laws and ordinances, legally described and containing sufficient frontage and legally approved access to public rights-of-way.

Lot, corner, means any lot located at the intersection of and having frontage on two or more streets.

Lot, double frontage, means any lot with frontage on two parallel or approximately parallel streets.

Lot area means the aggregate lot area measured to property lines but excluding easements.

Lot line, front, means the boundary line of a lot bordering on a road or public right-of-way.

Lot line, rear, means the boundary line of a lot, which is opposite and most distant from the front lot line and does not connect to the front lot line.

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

Mobile food unit means any wagon, truck, pushcart, or vehicle self-propelled or otherwise movable from place to place from which any person sells, offers for sale, or gives away, beverages, food or any food product for human consumption. A mobile food unit may be as complex as a full commercial kitchen on wheels or may be as simple as a pushcart.

Mobile home park means a parcel of land on which space is leased or rented for occupancy by two or more mobile homes and which contains facilities for the use of mobile home occupants. Mobile home parks are not authorized in the village.

Modular or prefabricated home means a factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure on a permanent foundation; the term "modular or prefabricated home" applies to major assemblies designed to be permanently affixed to real property in conformance with the local building codes, and does not include prefabricated supplements, such as panels, trusses, or plumbing trees which are to be incorporated into a structure at a building site.

Nonconforming uses, lots or structures means any building, structure or portion thereof, or use of any building or land which does not conform to the regulations of this chapter but which lawfully existed on the effective date of the ordinance from which this chapter is derived.

Open space means an area created for the purpose of retaining and enhancing the rural character of the village assuring that commercial development will compliment, not harm the natural beauty of the village.

Parking, off-street means an area used for parking of motor vehicles as regulated by this chapter.

Permissive use means any use authorized in a particular zone district established by this chapter.

Planning and zoning commission means the planning and zoning commission of the village.

Premises means any lot or combination of contiguous lots held in single ownership, together with the development thereon.

Public right-of-way means a thoroughfare, which has been dedicated to the public by deed, or reserved by plat, or otherwise acquired by the village, county, state, or federal government.

Residential mobile home or manufactured housing means a transportable structure, at least eight feet in width and 32 feet in length, built to be towed on its own chassis, and designed to be used as a movable dwelling unit for connection to permanent utilities. A mobile home structure shall be certified as meeting the National Manufactured Housing Construction and Safety Standards of the U.S. Department of Housing and Urban Development. A mobile home shall be installed in accordance with the provisions of the N.M. Manufactured Housing Act. Mobile homes shall not be used for a commercial business.

Salvage material means any excess or reusable materials having a value to the owner.

Seasonal sales means the seasonal selling, offering for sale, selling or delivering, bartering, exchanging, peddling or outside sales of any goods, wares, merchandise, property, either real or personal, tangible or intangible, services, Christmas trees or other vegetation or food items such as chile, piñon, fruits and vegetables, on any commercial property in the village. Such sales may require village business registration.

Setback means the minimum allowable distance between any building and the nearest lot line of the lot upon which it is located, consisting of open space, unoccupied by any structure, except as otherwise provided in this chapter.

Setback, front yard, means the minimum allowable distance between any building and the front lot line of the lot on which such building is located. No more than one front yard setback shall be designated on commercial lots or double frontage lots.

Setback, rear yard, means the minimum allowable distance between any building and the rear lot line of the lot on which such building is located. On double frontage lots, the rear yard setback shall be designated on the opposite side of the lot from the designated front yard setback.

Setback, side yard, means the minimum allowable distance between any building and a side lot line of the lot on which such building is located. On corner lots, a side yard setback shall be designated along the lot line bordering a road or street that is not designated as the front yard setback.

Shopping center means an aggregation of retail service or commercial businesses occupying a single site and including any number of businesses connected or clustered with common parking and vehicular access.

Sign means a device intended to direct or attract persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the sign regulations herein:

- (1) Signs required by state or federal law, or signs of an official governmental body.
- (2) Illustration of names of occupants and address or property numbers, when smaller than one square foot.

- (3) Private traffic signs, visitor signs, or warning signs bearing no advertising matter, and smaller than one square foot.

Sign face means the area of the sign, which is enclosed by a continuous line, connecting the extreme points or edges of the sign, but not including structural supports of the sign. For any two-sided sign, only one sign face shall be counted in computing the sign size.

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

Subcontractor means any individual, company, or other entity that contracts with another individual, company, government or other entity (the contractor) to perform a service of any kind. The contractor shall be responsible for ensuring that all village sales taxes are paid by the subcontractor for work done within the village.

Subdivider means any person proposing a subdivision, including the owner, equitable owner, or any authorized representative.

Subdivision.

- (1) The term "subdivision" means:
 - a. For the area of land within the corporate boundaries of the municipality, the division of land into two or more parts by platting or by metes and bounds description into tracts for the purposes set forth in this definition; and
 - b. For the area of land within the municipal extraterritorial subdivision and platting jurisdiction, the division of land into two or more parts by platting or by metes and bounds description into tracts of less than five acres in any one calendar year for the following purposes:
 - 1. Sale for building purposes;
 - 2. Laying out a municipality or any part thereof;
 - 3. Adding to a municipality;
 - 4. Laying out suburban lots; or
 - 5. Resubdivision.
- (2) The term "subdivision" includes the division of any lot or tract of land into two or more parts for the purpose whether immediate or in the future of sale, lease, or development. Subdivision does not include the following:
 - a. Any residual land retained by the subdivider after subdivision, but which has not been divided for subdivision purposes.
 - b. The sale or lease of apartments, offices, stores or similar space within a building.
 - c. Any division of land in which only gas, oil, mineral, or water rights are severed from the surface ownership of the land.
 - d. Any division of land created by court order, except court orders involving land grant adjudications.

- e. The leasing of land for grazing or farming activities.

Temporary means a time frame to be determined by the planning and zoning commission.

Tenant means an individual who rents space for commercial purposes from a business registered with the village (e.g., beauty salons, art galleries, flea markets, etc.). All such tenants must obtain a village business registration.

Tiny house means a ground set dwelling that is 400 square feet (37 square meters) or less in floor area excluding lofts.

Travel trailer or recreational vehicle (RV) means a vehicle, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, and not permanently connected to utilities.

Undeveloped lot means a vacant lot or a lot containing unpermitted structures.

Use means the purpose for which land or a building is designed, arranged or intended, or for which it is occupied or maintained, rented or leased.

Variance means a relaxation of the terms of this chapter where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this chapter would result in unnecessary hardship. Financial gain or loss shall not be the determining factor in deciding a variance.

Vendor means an individual that sells a product or conducts seasonal sales (wood, landscaping materials, produce, etc.) on private property at the side of the road and is not a tenant to a business registered with the village, thus a business license is not required. The term "vendor" includes mobile food units.

Zone means any section of the village in which requirements for the use of buildings and land is uniform, as prescribed by this chapter.

(Ord. No. 190, § II, 8-10-2020)

Sec. 26-6. Penalties.

Any person violating any of the provisions of this chapter shall be subject to a fine not exceeding \$500.00. Any violation continued for a period of 60 days may result in legal action.

- (1) Any resident or business entity that fails to obtain required construction permits or fails to ensure that their subcontractors or vendors pay gross receipts taxes shall be subject to a fine.
- (2) Any noncomplying resident or business entity shall be required to obtain all required county construction inspections.
- (3) The village shall charge a fine of:
 - a. Up to \$150.00 for the first offense;
 - b. Up to \$250.00 for the second offense;
 - c. Up to \$500.00 for the third offense and revoke their business registration.

(Ord. No. 190, § XI(F), 8-10-2020)

Secs. 26-7—26-32. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 26-33. Administrative official.

The mayor shall appoint the planning and zoning commission members to administer the provisions of this chapter.

(Ord. No. 190, § I(E(1)), 8-10-2020)

Sec. 26-34. Inspection.

The village manager/clerk and deputy clerk have the authority to conduct inspection of buildings, structures and the use of land to determine compliance with this chapter. This provision does not grant right of entry without due process if necessary. The village manager/clerk and deputy clerk shall have the authority to conduct on-site inspections and gather other relevant information, as may be requested by the village council or planning and zoning commission for purposes of carrying out the requirements of this chapter.

(Ord. No. 190, § I(E(2)), 8-10-2020)

Sec. 26-35. Information and records.

The village manager/clerk shall maintain an office to supply the public with information concerning this chapter and shall maintain the official village zoning map in an updated form. A zoning action file shall be maintained and shall contain records which include the following:

- (1) Conditional use permits.
- (2) Variances.
- (3) Applications for amendments.
- (4) Zoning appeals.
- (5) Building permit applications.
- (6) Zoning violations.

(Ord. No. 190, § I(E(3)), 8-10-2020)

Sec. 26-36. Records review.

The village manager/clerk shall review all active files for any given current year on an annual basis as needed. He/she will follow up on any open/pending items in the zoning action file with officials at the county and/or residents directly. The manager/clerk will update the files with the appropriate documents, including records of communications with residents and officials, final inspection reports, certificates of occupancy, building permits, observations of zone violations, etc.

(Ord. No. 190, § I(E(4)), 8-10-2020)

Sec. 26-37. Violations, complaints and notification.

The village manager/clerk may institute any appropriate actions or proceedings whenever there is probable cause to believe there is a violation of this chapter. Any person aggrieved by an apparent violation of this chapter shall file a written complaint with the village manager/clerk who shall immediately investigate such complaint to determine if a violation of this chapter is found to exist. Whenever the village manager/clerk finds probable cause to believe a violation of this chapter exists, whether acting on independent initiative or in response to a complaint, the village manager/clerk shall notify the person responsible for the alleged violation in writing. Such notification shall order the necessary correction to be made within 45 days following the date of notification. Any person who fails to comply with the notification order shall be subject to penalties as stated in this chapter.

(Ord. No. 190, § I(E(5)), 8-10-2020)

Sec. 26-38. Subcontractors.

Village business owners who rent space to subcontractors (i.e., beauty salons, art galleries, flea markets, etc.) shall ensure all of their subcontractors pay village gross receipts taxes. Owners shall provide the village manager/clerk a list of all subcontractors and notify the manager/clerk when changes to the list are necessary. This requirement does not apply to businesses that contract with the village and employ subcontractors. In such cases, those businesses contracting with the village shall ensure that subcontractors pay village gross receipts tax.

(Ord. No. 190, § XI(D), 8-10-2020)

Sec. 26-39. Vendors.

Individuals selling products or conducting seasonal sales (wood, landscaping materials, produce, etc.) on private property alongside state or village roadways are classified as vendors. The owners of the property used by vendors shall be responsible for ensuring that gross receipts taxes are paid on all sales made by vendors on their property. Vending on public property or within roadway rights-of-way is prohibited.

(Ord. No. 190, § XI(E), 8-10-2020)

Secs. 26-40—26-66. Reserved.**DIVISION 2. PROCESS, PLANNING AND REVIEW****Sec. 26-67. Review and approval for erecting building or altering building footprint.**

For purposes of this chapter, no building or structure shall be erected or building footprint altered upon any premises within the village without being reviewed and approved by the planning and zoning commission or village council.

(Ord. No. 190, § X(A), 8-10-2020)

Sec. 26-68. Final approvals.

(a) The planning and zoning commission will make the final decision (to approve, deny or approve with conditions) for the following uses:

- (1) Permitted use.
- (2) Business registration.
- (3) Building or sign permit.

(b) The planning and zoning commission will review and make a recommendation to the village council for the uses listed below. The village council will then make the final decision (to approve, deny, approve with variance or approve with conditions) on the following uses:

- (1) Conditional use.
- (2) Variance.
- (3) Zone change, including special use.
- (4) Zone text amendment.
- (5) Annexation.

(Ord. No. 190, § X(A), 8-10-2020)

Secs. 26-69—26-94. Reserved.

DIVISION 3. ZONE CHANGE

Sec. 26-95. Authority to amend.

The village council may amend any of the regulations, zones or zone boundaries established by this chapter.

(Ord. No. 190, § X(C(intro. ¶)), 8-10-2020)

Sec. 26-96. Application.

Any request for an amendment to this chapter or to the zone map shall be submitted with a filing fee to the village manager/clerk on a prescribed application form obtainable at the village office. An application may be initiated by the village acting on behalf of the community at large. The village manager/clerk shall transmit the application and any supplementary information to the planning and zoning commission for review at the next available meeting pursuant to state statute notification requirements. The planning and zoning commission shall prepare and transmit a recommendation in writing to the village council.

(Ord. No. 190, § X(C(1)), 8-10-2020)

Sec. 26-97. Notification by mail.

Whenever a zone change is proposed, notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners of land within 150 feet of the area proposed to be changed by

zoning regulation. If any notice by first class mail is returned undeliverable, the village shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested.

(Ord. No. 190, § X(C(2)), 8-10-2020)

Sec. 26-98. Planning and zoning commission review.

The property owner will be scheduled to attend a meeting of the planning and zoning commission that will review the project. At the meeting, the owner will present the project to the planning and zoning commission.

(Ord. No. 190, § X(C(3)), 8-10-2020)

Sec. 26-99. Commission recommendation for approval or denial.

The planning and zoning commission will recommend approval or denial to the council or may table the case for a specified future date.

(Ord. No. 190, § X(C(4)), 8-10-2020)

Sec. 26-100. Public hearing.

Upon receipt of the written recommendations of the planning and zoning commission, the village council shall call for a public hearing in which to make its decision on an application for amendment to this chapter or to the zone map. Notification of time and place of the public hearing shall adhere to the provisions of the Open Meetings Act. The village council shall conduct the public hearing, at which all interested parties and citizens shall have an opportunity to be heard.

(Ord. No. 190, § X(C(5)), 8-10-2020)

Sec. 26-101. Decision.

The council shall make its decision on a request for an amendment to this chapter no later than 45 days following the date of the public hearing. A decision by the council shall be made by a formal action to approve, to approve with conditions, to deny, or to remand the application back to the commission for additional review and recommendation prior to a final decision by the council.

(Ord. No. 190, § X(C(6)), 8-10-2020)

Sec. 26-102. Mayoral review.

If the village council approves the project, the mayor will sign and stamp the plans.

(Ord. No. 190, § X(C(7)), 8-10-2020)

Sec. 26-103. County review and processing.

Upon final approval by the village council, the authorized village representative will prepare the approval documents. The owner will then contact the county for the permits necessary to complete the

project. When the project is complete the property owner shall deliver to the village manager/clerk a copy of the building permits obtained from the county and copies of all code inspections that were conducted on the project, along with the certificate of occupancy if applicable to the project.

(Ord. No. 190, § X(C(8)), 8-10-2020)

Sec. 26-104. Zone map updated.

Upon approval of a zone map amendment by ordinance, the zone map will be updated accordingly.

(Ord. No. 190, § X(C(9)), 8-10-2020)

Secs. 26-105—26-121. Reserved.

DIVISION 4. PLAN REQUIREMENTS

Sec. 26-122. Application legibility; review fee.

Applicants must legibly complete and submit their request to the village manager/clerk on official forms, available at the village offices. The appropriate administrative review fee will be paid in full before the application will be reviewed.

(Ord. No. 190, § X(D(1)), 8-10-2020)

Sec. 26-123. Planning.

Prior to contacting the village about proposed changes to their property, including erecting a structure or altering the existing building footprint, private or commercial owners shall develop a site plan that accurately depicts the intended modification.

(Ord. No. 190, § X(D(2)), 8-10-2020)

Sec. 26-124. Construction.

When any structure construction or structure placement is planned, the property owner shall provide a written description of the project and a drawing depicting the planned construction or structure placement. The drawing shall include, at a minimum, the property boundaries, the location of the construction or structure placement and the relationship of the project to all the setbacks.

(Ord. No. 190, § X(D(3)), 8-10-2020)

Sec. 26-125. Remodeling.

If the planned project will remodel an existing structure and it changes the footprint, the owner shall provide a written description of the project. If the project includes a change to the structure's footprint, a drawing will be included depicting the property boundaries, the new footprint, the setbacks relative to the new footprint and any change to the elevation of the structure.

(Ord. No. 190, § X(D(4)), 8-10-2020)

Sec. 26-126. Roadway access.

If access to state or federal highways is planned, NMDOT District Three Office must approve that access.

(Ord. No. 190, § X(D(5)), 8-10-2020)

Sec. 26-127. Traffic impact analysis.

Any site proposal for a development containing 10,000 square feet of floor space or more shall include a traffic impact analysis of traffic to be generated by the development and its effect on the surrounding street system.

(Ord. No. 190, § X(D(6)), 8-10-2020)

Sec. 26-128. Additional plan requirements for CB-1, CB-2, G/I and SU Zones.

(a) The development plan shall include an estimate of the anticipated water usage during construction and when the project is in operation.

(b) The site shall be located with direct access to a state or federal arterial highway. Access to said highway must be approved by NMDOT District Three Office.

(c) At least ten percent of the required off street parking area shall be landscaped and maintained in a clean and healthy condition. All outside storage and refuse collection areas shall be screened from public view to the greatest extent possible.

(d) A minimum ten-foot-wide landscaped area shall be contiguous to all property lines along any adjacent residential zoned lands. A solid six-foot fence and/or barrier shall be used in order to establish a visual screen.

(e) The exterior lighting of all buildings, structures, and surrounding grounds shall provide illumination for safety purposes, and shall be placed and screened to the extent possible such that it does not shine directly or reflect on or into any adjoining residential properties or public right-of-way.

(Ord. No. 190, § X(D(7)), 8-10-2020)

Sec. 26-129. Sunset clause.

An approved site development plan may be voided for either of the following reasons:

- (1) Either the developer or other evidence indicates that significant changes have been made to the approved plan.
- (2) A building permit has not been obtained within one year following the date of approval of the site development plan.
- (3) If an approved site development plan becomes void, the conditional use permit for the site shall be terminated, if applicable.

(Ord. No. 190, § X(H), 8-10-2020)

Secs. 26-130—26-156. Reserved.

DIVISION 5. VARIANCE

Sec. 26-157. Variance approval.

The planning and zoning commission may approve a variance from the strict application of area, height, dimension, distance, setback, off-street parking, and off-street loading requirements of this chapter in the case of exceptional physical conditions where the strict application of the requirements of this chapter would result in a practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of land or building.

(Ord. No. 190, § X(E(intro. ¶)), 8-10-2020)

Sec. 26-158. Variance denial.

The planning and zoning commission may deny any request for a variance that is based on conditions which are the result of the actions of the applicant.

(Ord. No. 190, § X(E(intro. ¶)), 8-10-2020)

Sec. 26-159. Variance approval criteria.

(a) Where appropriate, a variance may be granted, provided that:

- (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 conditions are unique to the property; and
- (4) The variance is authorized for lot controls (i.e., setbacks and not for use of the premises).

(b) 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.

(Ord. No. 190, § X(E(1)—(5)), 8-10-2020)

Sec. 26-160. Additional conditions.

The planning and zoning 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) 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 stormwater runoff;
- (6) General compatibility with adjacent properties and other properties in the vicinity;

- (7) Significant hazard, annoyance, or inconvenience to the owners or occupants of nearby property;
 - (8) The overall health and safety of the community; and
 - (9) The goals and objectives of the comprehensive plan.
- (Ord. No. 190, § X(E(5)(a)—(i)), 8-10-2020)

Secs. 26-161—26-186. Reserved.

DIVISION 6. CONDITIONAL USE

Sec. 26-187. Approval by the village council.

Conditional uses shall not be allowed except upon approval by the village council after review and recommendation of the planning and zoning commission for issuing a permit and subject to any conditions which the village council may impose. All hearings for conditional uses shall comply with the Open Meetings Act.

(Ord. No. 190, § X(F(intro. ¶)), 8-10-2020)

Sec. 26-188. Application.

Any request for a conditional use permit shall be submitted with a filing fee to the village manager/ clerk on a prescribed application form obtainable at the village office.

(Ord. No. 190, § X(F(1)), 8-10-2020)

Sec. 26-189. Review process for conditional use.

The village manager/clerk shall transmit the completed application and any supplementary information to the commission for review and recommendation. The commission will transmit the recommendation to approve, deny or approve with conditions to the council. The commission may also table the case for a specified future date.

(Ord. No. 190, § X(F(2)), 8-10-2020)

Sec. 26-190. Guidelines.

The village council shall not approve any conditional use permit unless satisfactory provision has been made concerning the following, where applicable:

- (1) 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.
- (2) Off-street parking and loading areas where required, with particular attention to the refuse and service areas.
- (3) Water and wastewater facilities, with reference to soil limitations, locations, and public health.

(4) The noise, glare, or odor effects of the conditional use on adjoining properties.
(Ord. No. 190, § X(F(4)), 8-10-2020)

Sec. 26-191. Expiration.

All conditional use permits shall be issued for the period of time the village council determines to be consistent with the public interest and the criteria contained in this subsection, or as provided in this chapter, and shall be specified in writing at the time of issuance of the permit. At the expiration of any conditional use permit, the village council must approve an application for renewal of the conditional use permit after the review and recommendation of the planning and zoning commission.
(Ord. No. 190, § X(F(5)), 8-10-2020)

Secs. 26-192—26-220. Reserved.

DIVISION 7. APPEALS

Sec. 26-221. Right to appeal.

Any person aggrieved by a decision of the planning and zoning commission or of the village council in carrying out the provisions of this chapter may appeal such decision to the village council (if decision reached by planning and zoning commission) or district court (if decision reached by village council). Such appeal must set forth specifically all claims of an error or an abuse of discretion, or where the decision was not supported by the evidence in the matter.
(Ord. No. 190, § X(G(intro. ¶)), 8-10-2020)

Sec. 26-222. Application.

Any appeal following a decision of the planning and zoning commission or council shall be made in writing on prescribed forms obtainable at the village office upon payment of the applicable filing fee and submitted to the village manager/clerk. The council shall not consider any appeal not submitted within 15 days after the decision, which is the subject of the appeal. The village manager/clerk shall submit all papers involved in the proceedings to the council within 30 days after the receipt of the appeal application.
(Ord. No. 190, § X(G(1)), 8-10-2020)

Sec. 26-223. Public hearing.

The village council, following a public hearing, shall issue its decision on appeal. Notification of the time and place of the public hearing shall be consistent with the Open Meetings Act.
(Ord. No. 190, § X(G(2)(a)), 8-10-2020)

Sec. 26-224. Stay of proceedings.

An appeal shall stay all proceedings in the action unless the village manager/clerk certifies that a stay will cause imminent peril to life or property. Upon such certification, the proceedings shall not be stayed except by order of district court.
(Ord. No. 190, § X(G(2)(b)), 8-10-2020)

Sec. 26-225. Decision.

A majority vote of the members of the village council is required to reverse, change, or affirm a previous decision made by the village council or a decision of the planning and zoning commission. (Ord. No. 190, § X(G(2)(c)), 8-10-2020)

Sec. 26-226. Appeal to district court.

Appeals of the council will be made to the district court. (Ord. No. 190, § X(G(2)(d)), 8-10-2020)

Secs. 26-227—26-245. Reserved.

DIVISION 8. ANNEXATION*

Sec. 26-246. Annexation permitted.

Annexation to the village is governed in accordance with the provisions of state law. (Ord. No. 190, § X(I(1)(a)—(c)), 8-10-2020)

State law reference—Similar provisions, NMSA 1978, § 3-7-1(A).

Sec. 26-247. Request for annexation.

Any request for annexation into the village shall be filed and processed concurrently with an application for zone map amendment as provided in this chapter and in a manner consistent with state statutes.

(Ord. No. 190, § X(I(2)), 8-10-2020)

Secs. 26-248—26-272. Reserved.

DIVISION 9. FEES AND CHARGES

Sec. 26-273. General provision.

This section addresses the fees associated with administrative filings and business registrations. It addresses the responsibilities of business owners as they relate to use of subcontractors and vendors. Finally, the section outlines the penalties for violations of this chapter.

(Ord. No. 190, § XI(A), 8-10-2020)

Sec. 26-274. Fees.

Property owners subject to this chapter will be charged a fee by the village for administrative review and approval of all projects. For a list of fees associated with administrative filings and business registrations, please contact the village.

(Ord. No. 190, § XI(B), 8-10-2020)

***State law reference**—Annexation, NMSA 1978, § 3-7-1 et seq.

Sec. 26-275. Change by resolution.

All fees shall be subject to change by resolution of the village council.
(Ord. No. 190, § XI(C), 8-10-2020)

Secs. 26-276—26-298. Reserved.

ARTICLE III. NONCONFORMITIES

DIVISION 1. GENERALLY

Secs. 26-299—26-329. Reserved.

DIVISION 2. NONCONFORMING USES

Sec. 26-330. General scope and intent.

Within the zones established by this chapter, or amendments that may be adopted, there may exist lots; structures; and uses of land and structures which were lawful before the ordinance from which this chapter is derived was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to allow these nonconformities to continue until they are removed but not to encourage their survival. These nonconforming lots, structures and uses will exist legally after the adoption of the ordinance from which this chapter is derived.

(Ord. No. 190, § I(D(2(intro. ¶))), 8-10-2020)

Sec. 26-331. Expansion.

Nonconforming use shall not be enlarged, expanded, or extended. However, the addition of a lawful use to any portion of a nonconforming building, which existed prior to the enactment of the ordinance from which this chapter is derived, shall not be deemed an extension of such nonconforming use, subject to council approval.

(Ord. No. 190, § I(D(2(a))), 8-10-2020)

Sec. 26-332. Abandonment.

Whenever a nonconforming use has been discontinued or abandoned for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this chapter.

(Ord. No. 190, § I(D(2(b))), 8-10-2020)

Sec. 26-333. Nonconforming lot size.

Any lot of record existing prior to the effective date of the ordinance from which this chapter is derived that fails to meet the minimum area requirements may be developed or improved if setback and any other requirements of the lot are in conformance with the provisions of this chapter.
(Ord. No. 190, § I(D(2(c))), 8-10-2020)

Secs. 26-334—26-354. Reserved.**ARTICLE IV. ZONES AND REGULATIONS****DIVISION 1. GENERALLY****Sec. 26-355. Provisions applicable to all zones.**

In order to carry out the provisions of this chapter, the village is hereby divided into the following zones:

- (1) Residential Zone 1 (R-1).
- (2) Residential Zone 2 (R-2).
- (3) Commercial Business Zone 1 (CB-1).
- (4) Large Commercial Zone 2 (CB-2).
- (5) Industrial/Manufacturing/Service Zone 1 (I/M-3).
- (6) Government/Institutional Zone (G/I).
- (7) Special Use Zone (S-U).

(Ord. No. 190, § III(A), 8-10-2020)

Sec. 26-356. Zoning map.

The boundaries of zones are shown on the village zone map, which is hereby adopted per the regulations set forth in this chapter. The zoning map shall be maintained by the village manager/clerk and shall be made available for public reference.

(Ord. No. 190, § III(B), 8-10-2020)

Secs. 26-357—26-385. Reserved.**DIVISION 2. RESIDENTIAL ZONE 1 (R-1)****Sec. 26-386. Intent and purpose.**

The intent of this Residential Zone 1 (R-1) is to provide for the development of single-family homes of mixed construction, including conventional housing, modular or prefabricated dwelling units, tiny homes and mobile homes. Certain other uses specified in this section are allowed, provided they are

compatible with the development of the neighborhood. Density shall not exceed one dwelling unit per minimum one-acre lot. This zone does not allow for the occupation of a travel trailer as a single-family home.

(Ord. No. 190, § IV(A(intro. ¶)), 8-10-2020)

Sec. 26-387. Mobile home installation.

Mobile homes shall meet Residential Zone 1 (R-1) setback requirements. Mobile homes shall be limited to residential use only, unless otherwise provided in this chapter. Within 30 days following occupancy, mobile homes shall be connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored in accordance with regulations promulgated by the Manufactured Housing Act of the state.

(Ord. No. 190, § IV(A(1)), 8-10-2020)

Sec. 26-388. Permissive uses.

Any of the following uses are permissible in this Residential Zone 1 (R-1):

- (1) Accessory buildings, structures, or uses customarily incidental to the uses allowed in this zone, not exceeding 100 square feet.
- (2) Home businesses.
- (3) Public utility services, but not including a power generation plant.
- (4) Single-family dwelling unit including mobile homes and tiny homes, one per lot. Tiny homes must be ground set.
- (5) Cultivation of up to six mature and six immature cannabis plants for personal use in accordance with the provisions of the Cannabis Regulation Act (NMSA 1978, § 26-2C-1 et seq.).

(Ord. No. 190, § IV(A(2)), 8-10-2020; Ord. No. 210, § 1, 8-23-2021)

Sec. 26-389. Conditional uses.

The following uses may be allowed in this Residential Zone 1 (R-1) only upon permit granted by the village council after planning and zoning commission review and recommendation in accordance with this chapter:

- (1) Boardinghouse, roominghouse, or lodginghouse.
- (2) Churches and incidental facilities.
- (3) Family day care home as regulated by the state department of health.
- (4) Library, museum or art gallery.
- (5) Public and private schools.
- (6) Recreational facilities.

(7) Temporary real estate, caretaker or storage structures and contractor yards incidental to a specific construction project but not to exceed one year in duration unless the planning and zoning commission has approved an extension of the application.
 (Ord. No. 190, § IV(A(3)), 8-10-2020)

Sec. 26-390. Lot size.

The minimum lot size for this Residential Zone 1 (R-1) shall be one acre.
 (Ord. No. 190, § IV(A(4)), 8-10-2020)

Sec. 26-391. Setback requirements.

The minimum setback requirements for this Residential Zone 1 (R-1) are as follows:

<i>Front</i>	<i>Rear</i>	<i>Side</i>
20 feet	15 feet	10 feet

(Ord. No. 190, § IV(A(5)), 8-10-2020)

Secs. 26-392—26-410. Reserved.

DIVISION 3. RESIDENTIAL ZONE 2 (R-2)

Sec. 26-411. Intent.

The intent of this Residential Zone 2 (R-2) is to provide for low-density housing development in areas remote from available public services or situated in rugged terrain. This zone allows single-family homes of mixed construction, including conventional housing, modular or prefabricated dwelling units, and mobile homes. Certain other uses specified in this division are allowed, provided that they are compatible with the development of the neighborhood. Density shall not exceed one dwelling unit per minimum two-acre lot. This zone does not allow for the occupation of a travel trailer as a single-family home.
 (Ord. No. 190, § IV(B(intro. ¶)), 8-10-2020)

Sec. 26-412. Mobile home installation.

Mobile homes shall meet Residential Zone 1 (R-1) setback requirements. Mobile homes shall be limited to residential use only, unless otherwise provided in this chapter. Within 30 days following occupancy, mobile homes shall be connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored in accordance with regulations promulgated by the Manufactured Housing Act of the state.
 (Ord. No. 190, § IV(B(1)), 8-10-2020)

Sec. 26-413. Permissive uses.

Any of the following are permissive uses in this Residential Zone 2 (R-2):

- (1) One single-family dwelling or unit or one mobile home per lot.

- (2) Accessory buildings, structures, or uses customarily incidental to the uses allowed in this zone, not exceeding 100 square feet.
- (3) Public utility services, but not including a power generation plant.
- (4) Home business.
- (5) Cultivation of up to six mature and six immature cannabis plants for personal use in accordance with the provisions of the Cannabis Regulation Act (NMSA 1978, § 26-2C-1 et seq.).
(Ord. No. 190, § IV(B(2)), 8-10-2020; Ord. No. 210, § 2, 8-23-2021)

Sec. 26-414. Conditional uses.

The following uses may be allowed in this Residential Zone 2 (R-2) only upon permit granted by the village council after the planning and zoning commission's review and recommendation in accordance with this chapter:

- (1) Public and private schools.
- (2) Churches and incidental facilities.
- (3) Recreational facilities.
- (4) Family daycare home as regulated by the state department of health.
- (5) Temporary real estate offices, caretaker or storage structures and contractor yards incidental to a specific construction project but not to exceed one year in duration unless the commission and council have approved an extension of the application.
- (6) Boardinghouse, roominghouse, or lodginghouse.
- (7) Non-commercial library, museum or art gallery.
(Ord. No. 190, § IV(B(3)), 8-10-2020)

Sec. 26-415. Lot size; setback requirements.

- (a) The minimum lot size for this Residential Zone 2 (R-2) shall be two acres.
- (b) The minimum setback requirements for this Residential Zone 2 (R-2) are as follows:

<i>Front</i>	<i>Rear</i>	<i>Side</i>
30 feet	20 feet	15 feet

(Ord. No. 190, § IV(B(4)), 8-10-2020)

Secs. 26-416—26-443. Reserved.

DIVISION 4. COMMERCIAL, INDUSTRIAL, AND GOVERNMENT/INSTITUTIONAL
ZONES

Sec. 26-444. Applicability.

The provisions in this division apply to all commercial, industrial and government/institutional zones.
(Ord. No. 190, § IV(C(intro. ¶)), 8-10-2020)

Sec. 26-445. General preservation; compliance.

All commercial, industrial, and government/institutional development shall preserve the natural landscape, and open space shall be used to retain the rural character assuring that commercial development will compliment, not harm the natural beauty of the village.

(Ord. No. 190, § IV(C(1)), 8-10-2020)

Sec. 26-446. Compatibility of property uses.

All commercial, industrial, and government/institutional development shall assure that compatibility of property uses shall be maintained in the general area.

(Ord. No. 190, § IV(C(2)), 8-10-2020)

Sec. 26-447. Preservation of land character and integrity.

All commercial, industrial, and government/institutional development shall preserve the integrity and character of the land on which the uses will be located and the utility, character and value of property in all adjacent zones.

(Ord. No. 190, § IV(C(3)), 8-10-2020)

Sec. 26-448. Zoning areas not to become a detriment.

All commercial, industrial, and government/institutional development shall assure that these zoning areas will not become a detriment to the municipal water supply, traffic safety, or general welfare of the village.

(Ord. No. 190, § IV(C(4)), 8-10-2020)

Sec. 26-449. Inclusion of traffic impact analysis.

Any commercial, industrial, or government/institutional zone site development proposal containing 10,000 square feet of floor space or more shall include a traffic impact analysis to be generated by the development and its effect on the surrounding street system. If access to state or federal highways is planned NMDOT District Three Office must approve that access.

(Ord. No. 190, § IV(C(5)), 8-10-2020)

Secs. 26-450—26-466. Reserved.

DIVISION 5. COMMERCIAL BUSINESS ZONE 1 (CB-1)

Sec. 26-467. Intent.

The intent of the Commercial Business Zone 1 (CB-1) is to provide for those commercial and business uses which serve the community on a day-to-day basis, including retail, financial, and business services, in such a manner as to harmonize with the rural residential nature of the community, minimizing lighting, visual and audible distractions to create an overall esthetically pleasing environment. (Ord. No. 190, § IV(D(intro. ¶)), 8-10-2020)

Sec. 26-468. Minimum lot size.

The minimum lot size in this Commercial Business Zone 1 (CB-1) is one acre. (Ord. No. 190, § IV(D(intro. ¶)), 8-10-2020)

Sec. 26-469. Permissive uses.

Any of the following uses are permissible in the Commercial Business Zone 1 (CB-1) district:

- (1) One single-family unit per lot.
- (2) Professional offices (e.g., insurance agencies, law offices, CPA firms/tax preparers).
- (3) Banking services.

(Ord. No. 190, § IV(D(1)), 8-10-2020)

Sec. 26-470. Conditional uses.

The following uses may be allowed in the Commercial Business Zone 1 (CB-1) only upon permit granted by the village council after the planning and zoning commission's review and recommendation in accordance with this chapter:

- (1) Home business.
- (2) Public and private schools.
- (3) Churches and incidental facilities.
- (4) Recreational facilities.
- (5) Small (less than 1,000 square feet) eating and drinking establishments.
- (6) Small (less than 1,000 square feet) urgent care facilities.
- (7) Family day care home as regulated the state department of health.
- (8) Temporary real estate, caretaker or storage structures and contractor yards incidental to a specific construction project but not to exceed one year in duration unless the council has approved an extension of the application.
- (9) Non-commercial library, museum, or art gallery.
- (10) Public utility service, not including a power generation plant and other public services (e.g., libraries).

- (11) Retail business establishments except for gas, fuel, pumping services and/or other potential hazardous/flammable materials.
 - (12) Business services (e.g., nail and hair salons).
 - (13) Seasonal sales.
 - (14) Financial services.
 - (15) Cannabis establishments and cannabis consumption areas as regulated by the Cannabis Regulation Act (NMSA 1978, § 26-2C-1 et seq.), provided that no cannabis establishment or cannabis consumption area shall be permitted within 300 feet of any school or daycare facility. For the purposes of this division, all measurements taken in order to determine the location of licensed premises in relation to schools or daycare facilities shall be the straight-line distance from the licensed premises to the property line of the school or daycare facility.
- (Ord. No. 190, § IV(D(2)), 8-10-2020; Ord. No. 210, § 3, 8-23-2021)

Sec. 26-471. Development plan requirements.

All commercial development plans shall include a written description of the project and detailed architectural drawings depicting all structures to be constructed, storage and parking areas. The development plan shall include an estimate of the anticipated water usage during construction and when the project is in operation. In addition, the following requirements apply to all commercial developments:

- (1) All outside storage and refuse collection areas shall be screened from public view to the greatest extent possible.
- (2) A minimum ten-foot-wide landscaped area shall be contiguous to all property lines along any adjacent residential zoned lands. A solid six-foot fence and/or barrier shall be used to establish a visual screen.
- (3) The exterior lighting of all buildings, structures, and surrounding grounds shall provide illumination for safety purposes, and shall be placed and screened to the extent possible such that it does not shine directly or reflect into or on any adjoining residential properties right-of-way.
- (4) The site and plan design should be in harmony with the small village character of the area and should minimize visual distractions.
- (5) An approved site development plan may be voided for any of the following reasons:
 - a. Either the developer or other evidence indicates that significant changes have been made to the approved plan; or
 - b. A building permit was not obtained within one year following the date of the approval of the site development plan.
- (6) If an approved site development plan becomes void, the conditional use permit for the site shall be terminated.

- (7) Said developments shall not destroy the rural residential character of the village nor shall they affect the community water system, sewer system, fire protection systems, and any other infrastructures must be adequate to serve the development.

(Ord. No. 190, § IV(D(3)), 8-10-2020)

Secs. 26-472—26-495. Reserved.

DIVISION 6. LARGE COMMERCIAL ZONE 2 (CB-2)

Sec. 26-496. Intent.

The intent of the Large Commercial Zone 2 (CB-2) is to provide for those larger commercial, retail and business development uses which may potentially produce traffic of 100 vehicles or more per day, which serve the community on a day to day basis, including retail, financial and personal services, in such a manner as to be in harmony with the rural, residential character of the community, minimizing lighting, visual and audible distractions to create an overall esthetically pleasing environment.

(Ord. No. 190, § IV(E(intro. ¶)), 8-10-2020)

Sec. 26-497. Minimum lot sizes.

Minimum lot sizes shall be determined by the village council upon recommendation of the planning and zoning commission.

(Ord. No. 190, § IV(E(intro. ¶)), 8-10-2020)

Sec. 26-498. Permissive uses.

In order to safeguard the rural residential nature of the community and preserve limited natural resources, there shall be no permissive uses in this zone.

(Ord. No. 190, § IV(E(1)), 8-10-2020)

Sec. 26-499. Conditional uses.

The following uses may be allowed in the Large Commercial Zone 2 (CB-2) only upon approval granted by the council after the planning and zoning commission's review and recommendation in accordance with this chapter:

- (1) Retail business establishments.
- (2) General and professional offices.
- (3) Business and personal services.
- (4) Banking and financial services.
- (5) Public and private schools.
- (6) Churches and incidental facilities.
- (7) Non-profit recreational facilities.

- (8) Temporary real estate, caretaker or storage structures and contractor yards incidental to specific construction project but not to exceed one year in duration unless the council has approved an extension of the application.
 - (9) Non-commercial library, museum or art gallery.
 - (10) Lodging (hotels, motel bed and breakfast, or similar business) provided there is adequate community water and sewer systems to serve the development.
 - (11) Eating and drinking establishments.
 - (12) Urgent care facility, medical clinic, hospital and convalescent or nursing homes.
 - (13) Clubs and places of assembly when conducted completely within enclosed buildings.
 - (14) Gas/fuel pumping services which shall meet all state and federal regulations and comply with the state environmental department.
 - (15) Cannabis establishments and cannabis consumption areas as regulated by the Cannabis Regulation Act (NMSA 1978, § 26-2C-1 et seq.), provided that no cannabis establishment or cannabis consumption area shall be permitted within 300 feet of any school or daycare facility. For the purposes of this division, all measurements taken in order to determine the location of licensed premises in relation to schools or daycare facilities shall be the straight-line distance from the licensed premises to the property line of the school or daycare facility.
- (Ord. No. 190, § IV(E(2)), 8-10-2020; Ord. No. 210, § 1, 8-23-2021)

Sec. 26-500. Large commercial development plans and requirements.

- (a) All commercial development plans shall include a written description of the project and detailed architectural drawings depicting all structures to be constructed, storage and parking areas.
- (b) The development plan shall include an estimate of the anticipated water usage during construction and when the project is in operation.
- (c) In addition, the following requirements shall apply to all commercial developments:
 - (1) The site shall be located with direct access to a state or federal arterial highway. A minimum of two separate entrances and exits with direct access to a state or federal highway shall be provide for circulation and emergency vehicle access. Access to the highway must be approved by NMDOT District Three Offices.
 - (2) All buildings must be placed at least 100 feet from any property lines of residential uses or residential zoned land unless physical characteristics such as topography warrant a lesser setback, which must be approved by council.
 - (3) At least ten percent of the required off street parking area shall be landscaped and maintained in a clean and healthy condition.
 - (4) All outdoor storage and refuse collection areas shall be screened from public view to the greatest extent possible.

- (5) A minimum ten-foot-wide landscaped area shall be contiguous to all property lines along any adjacent residential zoned lands. A solid six-foot fence and/or barrier shall be used in order to establish a visual screen.
 - (6) The exterior lighting of all buildings, structures, and surrounding grounds shall provide illumination for safety purposes, and shall be placed and screened to the extent possible such that it does not shine directly or reflect on or onto any adjoining residential properties or public right-of-way.
 - (7) The site and plan design should be in harmony with the small village character of the area and should minimize visual distractions.
 - (8) Any site proposal for a development containing 10,000 square feet of floor space or more shall include a traffic impact analysis of traffic to be generated by the development and its effect on the surrounding street system.
 - (9) An approved site development plan may be voided by the village council for one or both of the following reasons:
 - a. Either the developer or other evidence indicates that significant changes have been made to the approved plan; or
 - b. A building permit has not been obtained within one year following the date of the approval of the site development plan.
 - (10) If an approved site development plan becomes void, the conditional use permit for the site shall be terminated.
 - (11) A site development shall not exceed a total of 136,000 square feet of floor area.
 - (12) On any site development, the largest individual business or retail trade use shall not exceed 20,000 square feet of the 136,000 total square feet making up the site development. No additional exterior storage facilities will be allowed on site.
 - (13) Said developments shall not destroy the rural residential character of the village nor shall they affect the community water system, sewer system, fire protection systems, and any other infrastructures must be adequate to serve the development.
- (Ord. No. 190, § IV(E(3)), 8-10-2020)

Secs. 26-501—26-523. Reserved.

DIVISION 7. INDUSTRIAL/MANUFACTURING/SERVICE ZONE 1 (I/M-3)

Sec. 26-524. Intent.

The intent of the Industrial/Manufacturing/Service Zone 1 (I/M-3) is to provide for those commercial, industrial and manufacturing uses which serve the community on a day-to-day basis in such a manner as to harmonize with the rural residential nature of the community.

(Ord. No. 190, § IV(F(intro. ¶)), 8-10-2020)

Sec. 26-525. Minimum lot size.

The minimum lot size in this Industrial/Manufacturing/Service Zone 1 (I/M-3) is one acre. (Ord. No. 190, § IV(F(intro. ¶)), 8-10-2020)

Sec. 26-526. Water use limits.

In order to safeguard a limited future water supply, the following limits shall apply to water use in this Industrial/Manufacturing/Service Zone 1 (I/M-3):

- (1) One-acre properties are limited to no more than 6,000 gallons per month, two-acre properties are limited to no more than 12,000 gallons per month, and five-acre properties are limited to no more than 30,000 gallons per month.
- (2) On properties larger than five acres, uses that require in excess of 50,500 gallons per month shall not be permitted.

(Ord. No. 190, § IV(F(intro. ¶)), 8-10-2020)

Sec. 26-527. Permissive uses.

Any of the following uses are permissible in the Industrial/Manufacturing/Service Zone 1 (I/M-3):

- (1) One single-family dwelling unit per lot.
- (2) Professional offices (e.g., insurance agencies, law offices, CPA firms/tax preparers).
- (3) Banking services.

(Ord. No. 190, § IV(F(1)), 8-10-2020)

Sec. 26-528. Conditional uses.

The following uses may be allowed in the Industrial/Manufacturing/Service Zone 1 (I/M-3) only upon permit granted by the village council after the planning and zoning commission's review and recommendation in accordance with this chapter:

- (1) Home businesses.
- (2) Public utility service, not including a power generation plant and other public services (e.g., libraries).
- (3) Retail business establishments except gas, fuel, pumping services and/or other potential hazardous/flammable materials.
- (4) Business services (e.g., nail and hair salons).
- (5) Seasonal sales.
- (6) Financial services.
- (7) Public and private schools.
- (8) Churches and incidental facilities.
- (9) Non-profit recreational facilities.

- (10) Family daycare home (five or more non-residents) as regulated by the state department of health.
 - (11) Temporary real estate offices, caretaker or storage structures and contractor yards incidental to a specific construction project but not to exceed one year in duration unless the commission has approved an extension of the application.
 - (12) Mobile home used as temporary nonresidential structure requiring a renewable one-year permit.
 - (13) Non-commercial library, museum, or art gallery.
 - (14) Clubs and places of assembly when conducted completely within enclosed buildings.
 - (15) Motor vehicle services and commercial garages, provided that:
 - a. Any repair work shall be conducted entirely within an enclosed building.
 - b. A solid wall or fence at least six feet high is erected and maintained between the activity and a contiguous R-1 and R-2 zones.
 - c. Outdoor storage of not more than five automobiles awaiting repair shall be permitted.
 - (16) Construction contractors, waste removal services, and building trades, including storage enclosed on all sides by a solid wall or fence at least six feet high.
 - (17) Annual firewood sales, provided:
 - a. All outdoor storage is enclosed by a solid wall or fence at least six feet high.
 - b. Wood shall not be stacked higher than six feet.
 - c. Wood shall not be stored within 20 feet of any property line or within 20 feet of any building.
 - (18) Motor vehicle sales (park and sell or similar business).
 - (19) Motor vehicle washing services (including mobile service) must comply with all state and federal regulations.
 - (20) Boarding or selling of animals.
 - (21) Storage units.
 - (22) Cannabis establishments and cannabis consumption areas as regulated by the Cannabis Regulation Act (NMSA 1978, § 26-2C-1 et seq.), provided that no cannabis establishment or cannabis consumption area shall be permitted within 300 feet of any school or daycare facility. For the purposes of this division, all measurements taken in order to determine the location of licensed premises in relation to schools or daycare facilities shall be the straight-line distance from the licensed premises to the property line of the school or daycare facility.
- (Ord. No. 190, § IV(F(2)), 8-10-2020; Ord. No. 210, § 5, 8-23-2021)

Sec. 26-529. Development plan requirements.

(a) All Industrial/Manufacturing/Service Zone 1 (I/M-3) development plans shall include a written description of the project and detailed architectural drawings depicting all structures to be constructed, storage and parking areas.

(b) The development plan shall include an estimate of the anticipated water usage during construction and when the project is in operation.

(c) In addition, the following requirements apply to all Industrial/Manufacturing/Service Zone 1 (I/M-3) developments:

- (1) All outside storage and refuse collection areas shall be screened from public view to the greatest extent possible.
 - (2) A minimum ten-foot-wide landscaped area shall be contiguous to all property lines along any adjacent zoned lands. A solid six-foot fence and/or barrier shall be used in order to establish a visual screen.
 - (3) The exterior lighting of all buildings, structures, and surrounding grounds shall provide illumination for safety purposes, and shall be placed and screened to the extent possible such that it does not shine directly or reflect into any adjoining residential properties or public right-of-way.
 - (4) The site and plan design should be in harmony with the small village character of the area and should minimize visual distractions.
 - (5) Any site proposal for a development containing 10,000 square feet of floor space or more shall include a traffic impact analysis of traffic to be generated by the development and its effect on the surrounding street system. If access to state or federal highways is planned, NMDOT District Three Office must approve that access.
 - (6) An approved site development plan may be voided for any of the following reasons:
 - a. Either the developer or other evidence indicates that significant changes have been made to the approved plan; or
 - b. A state-issued building permit has not been obtained within one year following the date of approval of the site development plan.
 - (7) If an approved site development plan becomes void, the conditional use permit for the site shall be terminated.
 - (8) Said developments shall not destroy the rural residential character of the village nor shall they affect the community water system, sewer system, fire protection systems, and any other infrastructures must be adequate to serve the development.
 - (9) Refer to supplementary regulations.
- (Ord. No. 190, § IV(F(3)), 8-10-2020)

Secs. 26-530—26-551. Reserved.

DIVISION 8. GOVERNMENT/INSTITUTIONAL ZONE (G/I)

Sec. 26-552. Intent.

This Government/Institutional Zone (G/I) is to be used for properties owned by the village and used for village purposes.

(Ord. No. 190, § IV(G(intro. ¶)), 8-10-2020)

Sec. 26-553. Compliance.

Planning and development in the Government/Institutional Zone (G/I) shall comply with all elements of the Commercial Business Zone 1 (CB-1).

(Ord. No. 190, § IV(G(intro. ¶)), 8-10-2020)

Sec. 26-554. Special use zone approval process.

Development in this Government/Institutional Zone (G/I) will follow the special use zone approval process.

(Ord. No. 190, § IV(G(intro. ¶)), 8-10-2020)

Sec. 26-555. Lot size.

The minimum lot size for Government/Institutional Zone (G/I) shall be one acre.

(Ord. No. 190, § IV(G(1)), 8-10-2020)

Sec. 26-556. Setback requirements.

The minimum setback requirements for Government/Institutional Zone (G/I) are as follows:

<i>Front</i>	<i>Rear</i>	<i>Side</i>
35 feet	20 feet	15 feet

(Ord. No. 190, § IV(G(2)), 8-10-2020)

Secs. 26-557—26-577. Reserved.

DIVISION 9. SPECIAL USE ZONE (S-U)

Sec. 26-578. Intent.

This Special Use Zone (S-U) provides for developments which require special consideration because of their magnitude, unusual nature, infrequent operations, questionable impact on surrounding property, or other such reason.

(Ord. No. 190, § IV(H(intro. ¶)), 8-10-2020)

Sec. 26-579. Defined.

The boundaries of this Special Use Zone (S-U) shall be defined as needed on a case-by-case basis following the amendment procedures provided in this chapter.

(Ord. No. 190, § IV(H(intro. ¶)), 8-10-2020)

Sec. 26-580. Special conditions.

Special conditions for the Special Use Zone (S-U) may be imposed by the village council following recommendation by the planning and zoning commission.

(Ord. No. 190, § IV(H(intro. ¶)), 8-10-2020)

Sec. 26-581. Requirements for zone change.

The village council may not grant a zone change for establishment of a Special Use Zone (S-U) unless satisfactory provisions have been made:

- (1) To ensure that compatibility of property uses shall be maintained in the general area and that the proposed use is not in conflict with the development policies and other elements of the comprehensive plan for the village.
- (2) To preserve the integrity and character of the area in which the Special Use Zone (S-U) will be located, and the utility and value of property in the Special Use Zone (S-U) and in adjacent zone districts; and
- (3) To ensure that the Special Use Zone (S-U) will not become detrimental to the public health, safety, or general welfare of the village.

(Ord. No. 190, § IV(H(1)), 8-10-2020)

Sec. 26-582. Special uses authorized.

A Special Use Zone (S-U) may be authorized and established only for uses designated by the village council, including, but not limited to:

- (1) Apartments, condominiums, and other multifamily dwellings provided there are no more than two dwelling units per structure on lots of adequate size to comply with the regulations and standards of the state environment department.
- (2) Automobile dismantling yard, or general salvage operation, provided that:
 - a. All activities are conducted within an enclosed building or within an area enclosed on all sides by a solid wall or fence at least six feet high.
 - b. Inoperative automobile bodies or salvage materials may not be stacked higher than the required surrounding wall.
 - c. The site for such operation shall not exceed five acres.
- (3) Cemetery, mausoleum, or crematory, provided that the site shall contain at least two acres.
- (4) Cell towers (telecommunications).

- (5) Fuel storage wholesalers (gasoline, liquefied petroleum), provided that all storage tanks shall not be within 500 feet of any lot in residential use, arroyo, surface water or public access building, and provided that sufficient blast, explosion, or fire-confinement structures are installed in accordance with appropriate national standards.
 - (6) Government facilities for general public use.
 - (7) Hospital and convalescent or nursing homes.
 - (8) Library, museum or art gallery (10,000 square feet or more).
 - (9) Manufacturing, including warehousing and retailing and wholesaling operations, provided that the following requirements are met:
 - a. The entire operation shall be no larger than 15 acres.
 - b. Principal structures in this zone shall not be within 150 feet of any residential structures, except for resident watchman or caretaker facilities related to the principal use of the zone.
 - c. All buildings on a site shall not cover an aggregate area of more than 60 percent of such site.
 - (10) Medical clinic or urgent care facilities (10,000 square feet or more).
 - (11) Mining, processing, or stockpiling of rock, sand, gravel, clay, or similar materials, provided that it complies with the following requirements for land rehabilitation:
 - a. Backfilling shall be made with non-noxious and non-combustible materials.
 - b. Peaks and depressions of the land resulting from the operation shall be reduced to a surface, which is in substantial conformity to the surrounding topography, and measures are taken to minimize erosion.
 - (12) Propane and/or natural gas sales.
 - (13) Public utility service, including a power generation plant.
 - (14) Retail business establishments (10,000 square feet or more).
- (Ord. No. 190, § IV(H(2)), 8-10-2020)

Sec. 26-583. Removal of zones.

In the event that a use authorized as a Special Use Zone (S-U) is discontinued for 30 days, the Special Use Zone (S-U) shall be canceled and removed under the provisions for an amendment to change the zone map to reflect the removal of the Special Use Zone. The lot shall be rezoned to the prevailing zone district as determined by the village council following recommendation by the planning and zoning commission.

(Ord. No. 190, § IV(H(3)), 8-10-2020)

Secs. 26-584—26-614. Reserved.

ARTICLE V. SUPPLEMENTARY DISTRICT REGULATIONS**DIVISION 1. GENERALLY****Sec. 26-615. Access to structures.**

All structures shall be located on lots to provide safe and convenient access for servicing, fire protection and any required off-street parking or loading.

(Ord. No. 190, § III(C), 8-10-2020)

Sec. 26-616. Water and wastewater facilities.

Regardless of any of the provisions of this chapter, all lots and all structures located thereon shall be in compliance with the regulations established by articles III and IV of chapter 24, the Wellhead Protection Plan, and those of the state environment department of the state engineer's office, and any other laws or regulations concerning water and wastewater facilities.

(Ord. No. 190, § III(D), 8-10-2020)

Sec. 26-617. Refuse disposal and salvage material control.

All persons owning or occupying lands within the village shall be responsible for the sanitary conditions of their premises. No person shall permit or cause the accumulation of refuse or solid waste or salvage materials, which may become hazardous to public health or safety, or which obstructs traffic, drainage, or access to structures.

(Ord. No. 190, § III(E), 8-10-2020)

Sec. 26-618. Professional services.

The planning and zoning commission and village council through discussion with the mayor/staff shall have the right to use and hire any professional services necessary to protect the interests of the village. Issues that may require professional services include but are not limited to floodplains, cell towers and steep slopes. The property owner shall absorb the expenses of these services as approved by the planning and zoning commission or village council.

(Ord. No. 190, § III(F), 8-10-2020)

Sec. 26-619. Storage tanks.

Any development requiring the use of underground storage tanks or any other facilities that may contaminate or pollute the water or air shall meet the minimum standards of all federal and state environmental laws and regulations such underground storage tanks or other such facilities, including buildings shall not be located within 100 feet from the center of an arroyo, acequia, water well, or any other waterway.

(Ord. No. 190, § III(H), 8-10-2020)

Sec. 26-620. Water storage tanks.

No overhead water storage tanks shall be allowed in the Residential Zone 1 (R-1) and Residential Zone 2 (R-2). See the Village of Tijeras Water Ordinance (chapter 24, article III). (Ord. No. 190, § III(I), 8-10-2020)

Sec. 26-621. Fire sprinklers.

Fire suppression must be consistent with current International Fire Code regulations. (Ord. No. 190, § III(J), 8-10-2020)

Sec. 26-622. Mobile food units.

Mobile food units are not allowed in the public right-of-way, but they are allowed in all zones given the following provisions are met:

- (1) The landowner must give written consent for the mobile food unit to operate on their land.
- (2) The mobile food unit must provide the village with copies of their permits.
- (3) The mobile food unit shall pay an annual fee to operate in the village. Please, contact the village for fee schedule.
- (4) The mobile food unit shall not operate within 75 feet of a brick-and-mortar restaurant during the restaurant's hours of operation.

(Ord. No. 190, § III(K), 8-10-2020)

Sec. 26-623. Towers.

All towers, including telecommunication towers, require a special use permit. (Ord. No. 190, § III(L), 8-10-2020)

Sec. 26-624. Overnight and drive through vendors.

No overnight vendors shall be allowed. If a property owner does not collect rental fees, then the village will charge a business registration fee. No vendors shall be allowed in the highway rights-of-way, and they must not obstruct traffic. Yard sales are not subject to these conditions.

(Ord. No. 190, § III(M), 8-10-2020)

Sec. 26-625. Inoperable vehicles.

Inoperable vehicles, vehicle bodies, parts, or salvage materials are not to be in view of adjoining properties, commercial areas or public roadways. Any such inoperable vehicles shall be removed, enclosed in a building or solid fence or other means that hide the inoperable vehicle from view. Any property owner upon whose property an inoperable vehicle is located and who fails to comply with the provisions of this division shall, upon 30 days written notice by the village to remove, be deemed to have consented to entry and removal by the village at the property owner's expense.

(Ord. No. 190, § III(N), 8-10-2020)

Secs. 26-626—26-653. Reserved.

DIVISION 2. HEIGHT

Sec. 26-654. Height regulations of buildings and structures.

No building shall exceed 26 feet in height. Building height limitations shall not apply to chimneys, noncommercial antennas or flagpoles. All water tanks, windmills, commercial antennas, spires, and other objects exceeding 26 feet above finished ground level shall require approval of a height variance. Telephone and electrical utility poles are exempt.

(Ord. No. 190, § VI(A), 8-10-2020)

Secs. 26-655—26-681. Reserved.

DIVISION 3. SIGNS

Sec. 26-682. Residential zones.

(a) In the Residential Zone 1 (R-1) and Residential Zone 2 (R-2), each lot shall not have more than one sign which shall not exceed ten square feet of sign face.

(b) No signs in the Residential Zone 1 (R-1) and Residential Zone 2 (R-2) shall be illuminated except home physical address numbers.

(c) Signs shall not exceed eight feet in height if freestanding and shall not extend above the highest point of a building when attached to that building.

(d) Temporary signs, such as political, yard sale, or sale/lease signs shall not exceed five square feet of sign face for each premises in this zone. These signs may be erected no earlier than 60 days before an event and shall be removed within ten days after the event.

(Ord. No. 190, § VII(A), 8-10-2020)

Sec. 26-683. Commercial, special use, and government zones.

(a) In the Commercial Business Zone 1 (CB-1), Large Commercial Zone 2 (CB-2), Government/Institutional Zone (G/I), and Special Use Zone (S-U), signs must be located on private property and may advertise, identify, or direct to a use currently conducted on the same premises.

(b) All signs shall be reviewed and approved by the planning and zoning commission prior to installation.

(c) Directory or multiple business signs which advertise a variety of establishments at the entrance of a strip mall are encouraged.

- (1) Private property entrance signs (including multiple business signs described above) shall not exceed 16 feet in height or a sign area of 50 square feet (back-to-back) for each business. Entrance signs should be back-to-back with an opposite directional view for maximum effect.
- (2) Identifying signs attached to the place of business shall not exceed 24 square feet of sign area and shall not extend more than five feet above the highest point of the building.

- (3) No sign in any zone shall be permitted with flashing, blinking or intermittent lights and no sign shall interfere with traffic safety. Electronic signs are not permitted, unless deemed necessary for road safety.
 - (4) Temporary signs shall not exceed ten square feet and may be erected no earlier than 60 days before an event and shall be removed within ten days after the event.
 - (5) No temporary signs shall be placed on village property.
 - (6) No billboards shall be allowed.
- (Ord. No. 190, § VII(B), 8-10-2020)

Sec. 26-684. Banners.

- (a) Banners shall be authorized for any business.
 - (b) The banner shall not exceed 40 square feet.
 - (c) No business shall have more than one banner (two back-to-back is one banner).
 - (d) A seasonal/announcement banner is a temporary sign which can be changed throughout the year. A banner can be replaced with similar wording and identical size as previously approved by the commission as the banner becomes ragged or faded.
 - (e) The planning and zoning commission will review and approve banners every three years.
- (Ord. No. 190, § VII(C), 8-10-2020)

Secs. 26-685—26-711. Reserved.

DIVISION 4. LIGHTING

Sec. 26-712. Fixture compliance.

Outdoor light fixtures in the village shall comply with the following:

- (1) All outdoor lighting fixtures shall be shielded, except incandescent fixtures of 2,250 lumens or less and other sources of 1,050 lumens or less.
- (2) All outdoor lighting fixtures shall be shielded and focused downward.
- (3) Outdoor light fixtures shall be limited to 15 feet in height.
- (4) Any outdoor lighting used for security, landscape or building illumination, or area illumination shall be additionally shielded in such a manner as to confine emitted light within the boundary of the property from which it originated.
- (5) No outdoor recreational facility, whether private or public, shall be illuminated after 10:00 p.m. except to conclude any recreational or sporting event or other activity, which is in progress prior to 10:00 p.m. at a ballpark, arena or similar facility.
- (6) Outdoor lighting fixtures which are necessary for worker safety are exempt from these provisions.

- (7) Outdoor lighting fixtures not meeting these provisions shall be allowed if the fixture is extinguished by an automatic shutoff device between the hours of 10:00 p.m. and sunrise. This does not include streetlights.
(Ord. No. 190, § VIII(A), 8-10-2020)

Secs. 26-713—26-737. Reserved.

DIVISION 5. ROADS AND ROADWAYS

Sec. 26-738. Development, approval and access to state roadways.

All new developments and property subdivision within the village shall be coordinated with the New Mexico Department of Transportation (NMDOT) District Three Office, prior to the approval of any action related to the change in property zoning/use.
(Ord. No. 190, § III(O), 8-10-2020)

Sec. 26-739. Access authorization.

(a) Property owners must receive authorization for access from their properties to NM 333 (Old 66), NM 14 and NM 337 (Old South 14). Authorization shall be obtained from the NMDOT District Three. The owner shall obtain a signed driveway permit from the NMDOT before final approval of the development is granted. All properties that have direct access onto the state highway must have an approved driveway permit.

(b) Access from the state roadway shall be in compliance with the state's access management manual. For single home residential properties, the owner may obtain access by filling out a driveway permit. Residents that have reasonable access from a side street may be denied access to the state road.

(c) Property owners will be required to meet with the district traffic engineer to determine requirements associated with the requested access. The district traffic engineer shall make the final determination regarding the need for a traffic study.
(Ord. No. 190, § III(P), 8-10-2020)

Secs. 26-740—26-761. Reserved.

DIVISION 6. OFF-STREET PARKING AND LOADING

Subdivision I. In General

Secs. 26-762—26-790. Reserved.

*Subdivision II. Off-Street Parking***Sec. 26-791. Requirements for new building or structure.**

There shall be provided on site, when any new building or structure is erected, off-street parking spaces as set forth in this subdivision.

(Ord. No. 190, § IX(A(intro. ¶)), 8-10-2020)

Sec. 26-792. Ground space availability.

Existing buildings or structures need to supply such parking only to the extent ground space is available; provided, however, that existing parking areas shall also be required to conform with these provisions.

(Ord. No. 190, § IX(A(intro. ¶)), 8-10-2020)

Sec. 26-793. Designation of parking.

Parking may be located on any portion of the parcel but shall clearly designate and provide for orderly parking so as not to obstruct public rights-of-way, or any parking or access areas or create any public hazards.

(Ord. No. 190, § IX(A(intro. ¶)), 8-10-2020)

Sec. 26-794. Paved parking areas; dirt or gravel parking areas.

On paved parking areas, the spaces will be designated with painted markings and be clearly visible at all times. On dirt or gravel parking areas, the spaces will be identified by physical partitions (cement bollards or wooden ties) physically anchored to the surface.

(Ord. No. 190, § IX(A(intro. ¶)), 8-10-2020)

Sec. 26-795. Required parking spaces.

The minimum number of parking spaces to be provided shall be as follows:

- (1) Clinics: five spaces per doctor.
- (2) Clubs: one space per five members.
- (3) Dwellings, single-family: two spaces per unit.
- (4) Dwellings, multifamily: 1.5 spaces per unit.
- (5) Eating and drinking establishments: one space per 100 square feet of floor area.
- (6) Hospitals, convalescent or nursing homes: one space per two beds.
- (7) Hotels and motels: one space per unit and one space per two employees.
- (8) Industrial, manufacturing, and wholesale establishments: one space per two employees on largest shift.
- (9) Mobile home and travel trailer parks: one space per unit.
- (10) Offices, retail, and service establishments: one space per 300 square feet of floor area.

(11) Places of public assembly: one space per four seats when fully occupied.
(Ord. No. 190, § IX(A(1)—(12)), 8-10-2020)

Sec. 26-796. Parking design standards.

- (a) All parking facilities must provide access to a public right-of-way and fire zones.
- (b) All driveway entrances shall be at least 30 feet wide to facilitate vehicular turning into parking area.
- (c) On any nonresidential premises, two percent of the spaces, but not less than one space, shall be set aside for the handicapped or physically disabled. In addition, parking spaces for the handicapped shall be prominently marked for use by the international symbol for handicapped access.
- (d) On any nonresidential premises, fire lanes shall be designated per applicable fire codes.
- (e) All parking area lay out shall be subject to council approval after commission review and recommendation.
(Ord. No. 190, § IX(B), 8-10-2020)

Secs. 26-797—26-815. Reserved.

Subdivision III. Off-Street Loading Requirements

Sec. 26-816. Provision and maintenance of loading space.

Any structures built or substantially altered after the effective date of the ordinance from which this chapter is derived and which receive or distribute bulk materials by motor vehicle shall provide and maintain off-street loading space as approved by the council after commission review and recommendation. Minimum off-street loading space shall be at least 50 feet long and 12 feet wide and shall not be located on designated parking space or public rights-of-way.
(Ord. No. 190, § IX(C), 8-10-2020)

Secs. 26-817—26-840. Reserved.

DIVISION 7. HOME BUSINESS

Sec. 26-841. Permit requirement.

The planning and zoning commission will approve a home business permit if the application meets the following requirements:

- (1) Exterior storage of materials and equipment required for the home business shall be permitted, provided that no nuisances result from the storage thereof.
- (2) There shall be no change in the exterior appearance of the building or premises, or any visible evidence of a home occupation other than:
 - a. Activities normally associated with a permissive use of the residence; and

- b. An appropriate sign as regulated by the signage regulations section of this chapter.
 - (3) No more than 25 percent of the dwelling's floor areas shall be devoted to the home business.
 - (4) 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.
 - (5) Any parking needs generated by the conduct of the home business shall be met using the parking supplied by the residence.
 - (6) No person or entity shall engage in a home business or occupation of any kind within the village limits without a current business registration, issued by the village manager/clerk.
- (Ord. No. 190, § V, 8-10-2020)

Appendix A

PERSONNEL POLICIES AND PROCEDURES*

- SECTION 1. RESPONSIBILITIES OF THE MAYOR FOR PERSONNEL FUNCTIONS
- SECTION 2. RESPONSIBILITIES OF THE GOVERNING BODY FOR PERSONNEL FUNCTIONS
- SECTION 3. RESPONSIBILITIES OF THE VILLAGE CLERK/MANAGER
- SECTION 4. EMPLOYMENT BY THE VILLAGE OF TIJERAS
- SECTION 5. VOLUNTEER FIRE DEPARTMENT PERSONNEL
- SECTION 6. PROBATIONARY PERIOD
- SECTION 7. PERFORMANCE EVALUATIONS
- SECTION 8. COMPENSATION
- SECTION 9. WORK HOURS
- SECTION 10. EMPLOYEE BENEFITS
- SECTION 11. TERMINATION OF EMPLOYMENT
- SECTION 12. CONFLICT OF INTEREST
- SECTION 13. PROHIBITIONS
- SECTION 14. DRUG FREE WORKPLACE POLICY
- SECTION 15. SEXUAL HARASSMENT POLICY
- SECTION 16. DISCIPLINARY ACTION, APPEAL, AND GRIEVANCE
- SECTION 17. HOURLY/SALARY EMPLOYEES
- SECTION 18. COMPUTER AND CELL PHONE USE

***Editor's note**—Printed herein is the Personnel Ordinance of the Village of Tijeras, Ordinance No. 195, as adopted on November 2, 2020. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.

SECTION 1. RESPONSIBILITIES OF THE MAYOR FOR PERSONNEL FUNCTIONS

The Mayor is the Chief Executive Officer of the Village and shall:

- A. Cause the ordinances and regulations of the municipality to be obeyed;
- B. Exercise, within the municipality, powers conferred upon sheriffs of counties to suppress disorders and keep the peace;
- C. Perform other duties, compatible with his office, which the governing body may require;
- D. At organizational meeting of the governing body, which shall be scheduled pursuant to state law, submit, for confirmation by the governing body, the names of persons who shall fill the appointive offices of the municipality and the names of persons who shall be employed by the municipality;
- E. Subject to the approval of a majority of all members of the governing body, appoint all officers and employees except those holding elective office;
- F. Designate an employee to perform any service authorized by the governing body;
- G. Supervise the employees of the municipality;
- H. Examine the grounds of reasonable complaints made against any employee;
- I. Examine the grounds of any Clerk/Manager recommended promotion, demotion, termination, or disciplinary action;
- J. Cause any violations or neglect of the employees' duties to be corrected promptly or reported to the proper authority for correction and punishment;
- K. With the approval of a majority of all the members of the governing body, discharge an appointed official or employee;
- L. With the approval of a majority of all the members of the governing body, suspend an appointed official or employee until the next regular meeting of the governing body;
- M. Upon request by any appointed official or employee who is discharged, give in writing a list of reasons for their discharge or discipline;
- N. Sign all commissions, licenses, and permits granted by the governing body, and other acts that law or ordinances may require, or the commissions, licenses and permits may be authenticated as authorized under the Uniform Facsimile Signature of Public Officials Act [Sections 6-9-1 to 6-9-6 NMSA 1978];
- O. Determine if an employee may be required to bring in a doctor's excuse in support of sick leave;
- P. Hear or appoint a hearing officer or upon receipt of a grievance complaint;
- Q. Decide upon grievance complaints in accordance with the grievance procedure;
- R. Designate a Deputy Clerk to assume the duties of the Village Clerk in the event of his or her inability to act or in the event his or her absence; and
- S. Maintain an effective system of personnel administration.

SECTION 2. RESPONSIBILITIES OF THE GOVERNING BODY FOR PERSONNEL FUNCTIONS

The Village Governing Body shall:

- A. By vote of a majority of all members, approve or disapprove Mayoral appointments, dismiss or suspend with or without pay any employee or appointed official, and decide any proper appeals of employees or appointed officials under the personnel ordinance;
- B. Elect one of its members to act as mayor pro tem in the absence of the mayor;
- C. Possess all powers granted by law, and other municipal powers not conferred by law or ordinance on another officer of the municipality;
- D. Manage and control the finances and all property, real and personal, belonging to the municipality;
- E. Determine the time and place of holding its meetings, which shall be open to the public;
- F. Determine the rules of its own proceedings;
- G. Keep minutes of its proceedings, which shall be open to examination by any citizen;
- H. Adopt rules and regulations necessary to affect the powers granted municipalities;
- I. Prescribe the compensation and fees to be paid municipal officers and employees;
- J. Prescribe the powers and duties of those officers whose terms of office or powers and duties are not defined by law and impose additional powers and duties upon those officers whose powers and duties are prescribed by law;
- K. Appoint a Claims Review Board if necessary;
- L. Oversee the procedures and expenditures of the Volunteer Fire Department;
- M. Sit as a Personnel Board, if necessary, in accordance with the grievance and disciplinary procedures; and
- N. By vote of a majority or all members, adopt personnel policy work rules by Resolution.

SECTION 3. RESPONSIBILITIES OF THE VILLAGE CLERK/MANAGER

The Village Clerk/Manager, under the directions of the Mayor, shall have the day-to-day responsibility for the administration of personnel matters including the following:

- A. Supervise all Village of Tijeras employees;
- B. Prepare and recommend to the Mayor such changes in the Ordinance as may be considered necessary and appropriate;
- C. Maintain a job classification plan and assure that job descriptions are prepared and maintained for each job classification and submit such to the Mayor and Governing Body for approval;
- D. Establish and maintain a roster of all officers and employees. Maintain a personnel file on each employee which will include job classification, supporting background, performance records and other relevant data;

- E. Develop written procedures for the evaluation of employees and submit such for approval of the Mayor and Governing Body;
- F. Develop forms to document approval to attend training and submit such for review and approval of the Mayor and Governing Body;
- G. Initiate in writing with documentation the promotion or disciplinary action of employees;
- H. Approve job classifications, descriptions and pay scales;
- I. Appoint a Personnel Board as needed, in accordance with the provisions of Section 3-13-4 NMSA 1978 and all amendments hereto; and
- J. Prepare and recommend Village of Tijeras Personnel Policies for Council approval. Those polices include, but are not limited to such topics as:
 - a. Internet use.
 - b. Cell Phone Use.
 - c. Harassment.
 - d. Personnel Feedback and Evaluations.
 - e. Maintaining a Safe Work Environment.
 - f. Workplace Violence.
 - g. Weapons in the Workplace.
 - h. Protection and inventory of Village property.

SECTION 4. EMPLOYMENT BY THE VILLAGE OF TIJERAS

- A. Vacant or new positions shall be filled as per requirements and qualifications specified from:
 - 1. Within any Village of Tijeras Municipal Department.
 - 2. The general public as an Equal Opportunity employer.

B. The Village of Tijeras is an Equality Opportunity employer and does not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, handicap or veteran status provided the individual is otherwise qualified to perform the work available.

SECTION 5. VOLUNTEER FIRE DEPARTMENT PERSONNEL

- A. Volunteer Fire Personnel will comply with the By Laws adopted by the Mayor and Governing Body and as mandated by the State Fire Marshal.
- B. All Volunteer Fire Personnel will submit to a background check.
- C. At an interval determined by the Fire Chief, all Volunteer Fire Personnel shall be subject to regular written evaluations that shall be forwarded to the Village Clerk/Manager within fourteen (14) days after their completion.

SECTION 6. PROBATIONARY PERIOD

A. New and promoted employees hired for part-time or full-time positions, except employees classified as at-will, shall serve a probationary period of six (6) months. A performance evaluation shall be conducted by the Village Clerk/Manager at regular monthly intervals during the probationary period. Employees in a probationary status may be terminated or demoted at any time with or without cause, or if they receive a negative performance evaluation. Upon written submission of a satisfactory job performance evaluation from the department head, new employees will obtain a regular status at the end of their probationary period. New employees on probationary status will accrue but are not entitled to take vacation, PTO, and/or sick leave. An employee who quits while on probationary status will not receive payment for their unused vacation leave balance.

B. New employees on probationary status are not entitled to rights and benefits provided under the disciplinary and grievance procedures of the Ordinance.

SECTION 7. PERFORMANCE EVALUATIONS

A. It is required that the supervisor utilize the performance evaluations of previous periods to review and discuss the overall progress of the employee with respect to Village employment. A performance evaluation form approved by the Village Governing Body will be completed annually per year for each employee evaluated.

SECTION 8. COMPENSATION

A. Compensation of employees shall be based on job classifications. Job classifications shall be based on authority, responsibility and duties of positions in the Village of Tijeras.

B. An annual and/or merit increase in pay may be granted to employees based on performance evaluation and other relevant factors.

C. Employees shall not be paid less than the State and Federal minimum wage.

D. In the event the Village offices are closed due to unusual circumstances, all employees will be paid for their scheduled work hours.

SECTION 9. WORK HOURS**A. FULL TIME HOURLY EMPLOYEES**

The normal schedule for full time hourly employees shall consist of forty (40) hours to be worked in five (5) days each week. The normal workday for full time hourly employees shall consist of eight (8) hours of work. The exact schedule of working hours shall be determined by the Clerk/Manager, and the employees shall be informed of their daily work schedule. Employees may not clock in more than 5 minutes before their official start time.

B. PART TIME EMPLOYEES

Part time employees will work the hours designated by the Clerk/Manager. Employees may not clock in more than 5 minutes before their official start time.

C. OVERTIME

There may be occasions when employees will be required to work more than their normal schedule. Overtime will be assigned by the supervisor to employees performing the particular job functions which require the overtime. However, no employee is permitted to work overtime unless authorized in advance by the supervisor with the approval of the Clerk/Manager. Failure to comply may result in a write up and/or dismissal.

Employees whose jobs are not exempt from the Federal Fair Labor Standards Act and who work more than forty (40) hours in any work week shall be paid for overtime work at one and one half (1½) times their hourly rate of pay.

SECTION 10. EMPLOYEE BENEFITS

A. HOLIDAYS

Legal holidays as observed by the State of New Mexico will be posted annually and may include the following:

- New Year's Day
- Martin Luther King Jr. Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Indigenous People's Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day

If any employee calls in sick the day before or the day after a holiday, the employee may be required to submit a written doctor's excuse as determined by the Clerk/Manager.

Employees working a regularly scheduled 40-hour work week will be eligible for holiday pay. Part time employees working twenty (20) hours per week, are entitled to holiday pay for the number of hours normally worked.

All full-time employees, under this Ordinance, called to work on holidays will be paid time and a half.

B. VACATION, PTO & SICK LEAVE

Full time employees working forty (40) hours per week shall accumulate leave in accordance with the following schedule:

	<i>VACATION</i>	<i>PTO</i>	<i>SICK</i>
less than 5 years	10 Days	2 Days	10 Days
5 years but less than 10 years	15 Days	2 Days	10 Days
10 or more years	20 Days	2 Days	10 Days

Vacations will be scheduled based on seniority status. A maximum of two (2) weeks of vacation will be allowed at any one (1) time.

In the event of dissolution of the Village of Tijeras, or any major reorganization of programs as may be determined appropriate by the Village Council, all or any employees which shall be affected will be compensated for all authorized compensation time, or vacation time as of the established date of termination.

Employees are encouraged to use their vacation by June 30th of each year. With permission from the Clerk/Manager, employees may carry over vacation annually for a maximum of 200 hours.

Employees will forfeit any remaining time. Under special circumstances, the Mayor with the approval of the Governing Body may grant extra carry over or payment.

Employees may carry over sick leave for a maximum of 500 hours. There will be no payout of sick leave upon termination. Mayor and Council may allow for additional carry over time in special circumstances.

Employees who use 5 or less sick days in a fiscal year will receive an additional PTO day the following fiscal year. Maximum of 5 PTO days may be carried over.

Vacation and sick time use will be deducted in increments of 15 minutes.

Two (2) weeks' notice must be given upon termination in order to receive vacation pay.

C. BEREAVEMENT LEAVE

Full-time and non-temporary part-time employees shall receive five (5) days administrative leave with pay in the event of death of the employee's spouse, child, stepchild, father, mother, brother, sister, stepparents, grandparents, father in law, mother in law or significant other.

Extended leave may be granted at the discretion of the Village Clerk/Manager, and will be charged to the employee's time or may be granted as leave without pay.

D. SICK LEAVE AND EMERGENCY LEAVE

Employees utilizing sick leave for three (3) or more consecutive days will be required to submit a written doctor's excuse. Whenever the supervisor believes an employee has abused sick leave, a written doctor's excuse may be required. Sick leave may be used for doctor appointments.

Upon the death of an employee from natural or accidental causes, 100% of the employee's vacation and PTO leave shall be converted to a cash payment. This will be paid to the employee's current designated beneficiary.

Holidays which occur during an employee's sick leave will not be charged to their sick leave time.

Employees who exhaust their sick leave may use their vacation time or may be granted leave without pay up to one (1) year, with the approval of the Mayor.

Employees shall receive five (5) days emergency leave with pay in the event of a terminally ill spouse, significant other, child or stepchild. Three (3) days absence with pay shall be granted due to terminal illness of a father, mother, brother, sister, stepparents or grandparents with the Mayor's approval.

E. INSURANCE BENEFITS

Employees shall be eligible for life and health insurance benefits after a 30-day period.

Subject to the Village's right to make changes in benefits and employer contributions, all regular employees are eligible to participate in the Village employee benefit insurance program (as described in materials provided by the carrier).

Regular Village employees with insurance coverage shall have COBRA continuation rights and may self-pay in the event their pay is not sufficient to make the required employee contribution.

Upon receiving Worker's Compensation benefits, the Village may continue to pay the employee's health insurance premiums for one month. After that the employee may choose to self-pay insurance premiums under COBRA.

Upon termination an employee may elect to self-pay all health insurance premiums under COBRA.

COBRA continuation rights are contingent on the former employee's timely paying directly to the carrier when due an amount equal to 102% (or whatever is in effect at the time) of the employer/employee contribution.

F. JURY DUTY

Any full time or non-temporary part-time employee who is called to serve required jury duty may be paid his or her regular pay for the employee's scheduled work time while serving on jury duty. The Village shall not deprive an employee of employment or threaten or otherwise coerce the employee because the employee receives a summons for jury service, responds to the summons, serves as a juror or attends court for prospective jury service. The Village shall not require or request an employee to use annual, vacation or sick leave for time spent responding to a summons for jury service, participating in the jury selection process or serving on a jury. Nothing in this subsection requires The Village to provide annual, vacation or sick leave to employees who are not otherwise entitled to those benefits under company policies.

G. RETIREMENT

The Village does not discriminate on the basis of age. The Village participates in the Public Employees Retirement Association Fund.

H. ANNUAL AND EMERGENCY MILITARY LEAVE

Military leave without pay will be authorized for regular employees who are members of the National Guard or Air National Guard of New Mexico, and/or who are members of any organized reserve unit of the Armed Forces of the United States, including Public Health Services, when ordered

to active duty training with such units. Employees called to active duty in emergencies declared by the President may be granted military leave. A copy of all orders must be attached to all requests for annual and/or emergency military leave.

I. LEAVE TO VOTE

Pursuant to Section 1-12-42 NMSA 1978, employees who shall be granted two (2) hours of paid leave between the opening and closing of the polls to vote on election days. Department heads must schedule and grant this time off for voting as requested by employees. Any voter who is enrolled as a member of an Indian nation, tribe or pueblo and is qualified to vote in the election are entitled to the same considerations. This does not apply to an employee whose workday begins more than two hours subsequent to the time of opening the polls, or ends more than three hours prior to the time of closing the polls. Any time which is taken off for voting cannot be used for any other purposed.

J. EARLY DISMISSAL

The Village Clerk/Manager has the authority to declare an early dismissal or late reporting due to hazardous weather conditions.

K. INJURIES IN PERFORMANCE OF DUTY

An employee who is disabled due to an on-the-job injury or occupational illness may elect to use sick leave for the scheduled hours lost, until weekly disability benefits commence in accordance with the provisions of the New Mexico Worker's Compensation Act.

Any employee who witnesses or suffers an on-the-job injury or occupational illness has a duty to report said injury or illness to their supervisor immediately. Failure to do so may jeopardize disability benefits.

Supervisors who witness or suffer an on-the-job injury or occupational illness have a duty to report said injury or illness to the Village Clerk/Manager immediately.

Any member of the Governing Body who witnesses or suffers an on-the-job injury or occupational illness has a duty to report said injury or illness to the Village Clerk/Manager immediately.

If the Mayor witnesses or suffers an on-the-job injury or occupational illness, he/she has a duty to report said injury or illness to the Village Council or Village Clerk/Manager immediately.

In the absence of sick leave, the employee may request vacation time for this period. Otherwise, such hours will be without pay.

In the event of such disability, the employee must provide to the supervisor a written statement from his/her physician verifying the medical reason for the disability and indicating the estimated length of disability.

Employees will be eligible to maintain their benefits during the period of such disability provided they make the appropriate benefit payment to the Village on a timely basis.

The Village will hold the disabled employee's position open unless, due to business necessity, it is necessary to fill the position on a regular basis. In such event, when the employee is released by his/her physician to return to normal duties, the employee will be reinstated to a position of like status and

pay, if available. If no such position is available, the employee will be terminated from employment with the Village but will be given preferential consideration for re-employment for a period of six (6) months.

The Village has the right to request a statement from a designated qualified professional to verify the disability. Employees who have been disabled for five (5) working days or longer may be required to provide a statement from their physician releasing them from their normal duties, as stated in their job description.

L. LEAVE WITH PAY

Leave with pay may be granted to employees for the purpose of participation in conferences, training, examinations and institutes directly related to the employee's work duties, provided advance approval is granted by the Village Clerk/Manager.

M. PERSONAL LEAVE WITHOUT PAY

For compelling personal reasons, an employee may request and may be granted a personal leave of absence without pay, not to exceed ninety (90) consecutive calendar days, provided such absence does not conflict with the interests of the Village's operations.

An employee must submit a request in writing setting forth the inclusive dates and reason(s) for the leave requested to the Village Clerk/Manager. Such a request must be approved by the Governing Body.

N. PARENTAL LEAVE (MATERNITY/PATERNITY LEAVE)

Employees are entitled to maternity/paternity leave.

1. PARENTAL LEAVE

It shall be the policy of the Village, in line with the Office of the Governor, to provide twelve (12) workweeks of fully paid parental leave to Eligible Employees following the birth or adoption of a child. Paid parental leave shall be paid based upon the Eligible Employee's base salary (excluding temporary increases of pay, such as temporary promotion increases, temporary recruitment differentials, temporary retention differentials, or temporary salary increases) determined by the employee's regularly scheduled work hours.

As used in this section, an Eligible Employee means a full-time classified employee who has completed the 6-month probationary period as defined herein, or an exempt employee who has been employed with the Village 6-months prior to the start of paid parental leave, excluding temporary, emergency, and term appointments. Paid parental leave may not be donated and any such leave not utilized within the six-month period explained below shall be forfeited. Domestic partners as defined by the State Personnel Board rules are eligible for paid parental leave when children join their household via birth or adoption. If both parents, including a Domestic Partner of a parent, are Eligible Employees, each parent or partner is eligible to receive Paid Parental Leave under this policy.

Eligible Employees must take paid parental leave during the first six (6) months following the birth or adoption of a child. Eligible Employees may utilize one (1) term of paid parental leave (up to 12 workweeks) per birth or adoption event. Employees utilizing paid parental leave shall continue to

accrue vacation and sick leave in accordance with state rules and regulations during the period of parental leave. If an official holiday occurs during the Eligible Employee's paid parental leave, the Eligible Employee will receive holiday pay in lieu of paid parental leave, provided the Eligible Employee is in pay status the day before and the day after the official holiday.

Paid parental leave shall run concurrently with leave under the federal Family Medical Leave Act (FMLA) as applicable.

Eligible Employees cannot receive short-term disability benefits and paid parental leave benefits at the same time.

Eligible Employees shall be required to notify their employer at least thirty (30) days in advance of their intention to use paid parental leave so that the employer may secure backfill coverage as necessary. When thirty (30) days' notice is not possible, the employee must provide this notice as soon as practicable.

SECTION 11. TERMINATION OF EMPLOYMENT

Termination of employment with the Village of Tijeras may be brought about by the employee's resignation, release, layoff or dismissal.

RESIGNATION

An employee will be considered to have resigned if the employee:

- A. Submits a letter of resignation to his/her supervisor setting forth the reasons for leaving and designating the last day of work. To maintain a good standing with the Village, employees must give notice at least ten (10) working days prior to their last day of work. The Mayor may elect to have the employee work the notice period or to pay the employee, not to exceed two (2) weeks' pay, and have the employee leave immediately.
- B. Leaves job without authorization.
- C. Is absent from work for three (3) consecutive days without prior approval.

RELEASE

No notice is required for the release of an employee at the end of temporary employment or any probation period.

LAYOFF

A layoff is the termination of an employee due to a reduction in force because of a lack of funds, lack of work, or other compelling reasons. Selection of employees for layoff shall be based on qualifications and performance as determined by the Governing Body, but if such are substantially equal, length of service shall be a determining factor.

DISMISSAL

Employees may be dismissed for unsatisfactory performance, misconduct, or other reasons deemed appropriate by the Village.

RETURN OF VILLAGE PROPERTY

At the time of termination, release, layoff, or resignation employees must return, in functioning condition, any items of Village property issued to them. New employees must sign a contract acknowledging receipt of any items of Village property and agreeing to return Village property. Employment with the Village of Tijeras is conditional on signing the Village property contract. In addition to other penalties described in the Village property contract, the Village may pursue legal action against an employee who fails to return Village property.

SECTION 12. CONFLICT OF INTEREST

A. Compliance with State Law

The Village of Tijeras elected officials, employees, contractors, volunteers, and appointees (hereinafter "PUBLIC OFFICERS") shall comply with the Law governing ethical principles of public service requiring them to:

Treat PUBLIC OFFICER'S positions or contracts as a public trust.

1. Use the powers and resources of the Village only to advance the public interest and not to obtain personal benefits or pursue private interests;
2. Conduct themselves in a manner that justifies the confidence placed in them by the people;
3. At all times maintain the integrity and discharge ethically the high responsibilities of public service;
4. In the Village of Tijeras public service, disclose all real or potential conflicts of interest and at all times avoid undue influence and abuse of office;
5. Never offer, request or receive any money, thing of value or promise thereof that is conditioned upon or given in exchange for promised performance of an official act. (Conviction of such being a fourth-degree felony see Section 31-18-15 NMSA 1978);
6. Never engage in an official act for the primary purpose of directly enhancing the public officer's financial interest or financial position;
7. Never acquire a financial interest when the public officer believes or should have reason to believe that the new financial interest will be directly affected by the public officer's official act;
8. Never request or receive an honorarium for a speech or service rendered that relates to the performance of public duties;
9. Never participate directly or indirectly in the contracting process to become or to be, while a Village public officer, an employee of any person or business contracting with the Village;
10. Never use or disclose confidential information acquired by virtue of the public officer's position with the Village for the public officer's or another's private gain. The Village shall not enter into a contract with a public officer, with the family of the public officer, or with a business in which the public officer or the family of the public officer has a substantial

interest unless the public officer has disclosed through public notice the public officer's substantial interest and unless the contract is awarded pursuant to a competitive process;

11. Never enter into a contract with, or take any action favorably affecting, any person or business that is represented personally in the matter by a person who has been a public officer of the Village within the preceding year if the value of the contract or action is in excess of one thousand dollars (\$1,000) and the contract is a direct result of an official act by the public officer;
12. Never assist in the transaction by a former public officer of the Village while a public officer directly resulting in the Village making that contract or taking that action;
13. Never for a period of one year after leaving the Village service represent for pay a person before the Village; and
14. Never accept a bid or proposal from a person who directly participated in the preparation of specifications, qualifications or evaluation criteria on which the specific competitive bid or proposal was based.

B. Applicability

This policy applies to Village public officers which includes Village elected officials, employees, volunteers and contractors providing professional services to the Village.

C. Administration of Policy

The Director of Human Resources or the Village Clerk/Manager, under the direction of the Village Mayor or his/her designee, shall have the responsibility and authority to ensure that all provisions of the Governmental Conduct Act (Section 10-16-3 NMSA 1978 et seq.) and this CONFLICT OF INTEREST POLICY are followed. The Director of Human Resources and the Village Clerk/Manager shall create and submit to the Mayor for his/her approval any form deemed necessary for the execution and enforcement of this policy.

D. Individual Responsibility

It is the responsibility of each Village public officer to be familiar with and to follow the CONFLICT OF INTEREST POLICY.

E. Conflicts and Interpretation

If any provision of this policy is in conflict with State law or regulation applicable to the Village, then the provisions of State law or regulation shall control. The Director of Human Resources or Village Clerk/Manager, in consultation with the Village Attorney, is authorized to interpret any provision of this policy that is vague or unclear under the circumstances presented, and may provide a written interpretation of the provision, which shall be implemented consistently by all public officers.

F. Official Influence

Village of Tijeras public officers are in a unique position to influence the public's confidence and trust in Village government.

G. Benefit Village Only

The people of the Village of Tijeras expect all public officers to act for the benefit of the Village of Tijeras as a whole and not to favor individuals.

H. Conflict of Interest

A conflict of interest occurs when a Village public officer takes direct official action on a matter before the Village in which the public officer, or their immediate family member, business associate, or an outside employer has a substantial financial, contractual, or employment interest.

- a. Family member means an individual's spouse, parents, children, or siblings by consanguinity or affinity.
- b. Financial interest means an interest that is an ownership interest in a business or property.
- c. Contractual interest means being a party to a contract that involves the business of the Village, except when such contract is a condition of employment with the Village.
- d. Employment interest means current or anticipated future employment.

I. Federal Awards

No Village public officer may participate in the selection, award or administration of contracts supported by a Federal award if he or she has a conflict of interest.

J. Gifts

A gift is anything of value one receives without giving adequate and lawful compensation for it. A gift may include meals, tickets to events, travel expenses, honoraria, services, loans, rebates, and discounts (unless offered to the public or all Village officials, employees, volunteers, and appointees on the same terms and conditions).

1. A Village public officer shall not accept a gift if:
 - a. If they are in a position to take direct official action toward the giver, and
 - b. The giver has or is about to have a business, contract or regulatory relationship with the Village.
2. However, the following may be accepted even if in a position to take direct official action with regard to the giver.
 - a. Gifts from another Village public officer or their family members on appropriate occasions, i.e., birthdays and funerals.
 - b. Campaign contributions as permitted by law.
 - c. Nonmonetary awards for public service that are presented by an organization as long as the award is not extraordinary given the recipient's position.
 - d. Unsolicited items, cash, or gift cards valued at \$25.00 or less.
 - e. Reasonable expenses paid by a non-profit organization or government for one to participate in a meeting if one is scheduled to make a speech, presentation, participate on a panel, or represent the Village.

K. Violation

Village public officers shall not participate in any official action that directly benefits themselves or their families.

L. Penalty

If a Village public officer violates this policy, the person may be subject to censure and/or discipline up to termination of employment, appointment, or contract. This penalty does not preclude a referral to the Attorney General or District Attorney for review, possible action to remove from office, employment, appointment or contract benefits, and prosecution of criminal violations.

SECTION 13. PROHIBITIONS

Violation of provisions of this section by an employee shall be grounds for disciplinary action up to and including dismissal.

Employees must in all instances maintain their conduct at the highest standards. No employee shall continue employment with the Village if engaged in any activity diminishing the integrity or efficiency of their position. The following is a partial and non-exhaustive list of items which may be considered by the village as causes for suspension, demotion or dismissal.

No employee shall participate in any type of political activity which uses their position or employment to influence the support of other officials or employees of the Village, or to influence support for or against any candidate or issue in any election, provided however, that nothing herein shall deny the right of any official or employee of the Village to express their views on any issue whatsoever.

No person shall willingly or knowingly make any false statement with respect to any test, certification, or appointment or in any manner commit any fraud in connection with their employment with the Village or with the employee's official duties.

No person seeking appointment to, or promotion in, the service of the Village shall either directly or indirectly give, render, or pay any money to perform services, or give other items of value to any person for, or on account of, or in connection with any test they may be required to pass, appointment, proposed appointment or proposed promotions, provided however, that this provision shall not apply to payments made to duly licensed employment agencies.

No reward, favor, gift or other remuneration in addition to regular compensation and employee benefits shall be received by any employee for the performance or non-performance of their duties or in anticipation of such performance or non-performance of their duties from any vendor, contractor, individual or firm doing business with the Village in the future, or from any other source having or proposing to have any relationship with the Village, provided however, that this provision shall not apply to occasional non-pecuniary gifts insignificant in value, awards publicly presented in recognition of public service, acts of heroism, or for solving of crimes or commercially reasonable loans made in the ordinary course of business by an institution authorized by the laws of the State to engage in the business of making loans to individuals.

No employee shall continue outside employment if it is determined by the Mayor that such employment has a negative impact on an employee's job performance, and it is not the subject of a grievance as defined in this policy.

No relative of any employee, Mayor, or Council Member, by blood or marriage, may be employed in any position as a regular employee with the Village in which the employee may be able directly to supervise, control or influence the work or employment status of the relative or the affairs of the organizational unit in which the relative is employed.

SECTION 14. DRUG FREE WORKPLACE POLICY

It is the policy of the Village of Tijeras to provide a work environment that is free from the use, possession, sale or distribution of illegal drugs and from the misuse of alcohol and legal drugs by Village employees. Accordingly, the Village requires that employees and contractors alike will be subject to testing to determine the presence of unacceptable levels of illegal drugs, alcohol or inappropriately used legal drugs within their bodies while performing the Village's business. Therefore, this policy is to assure that only safe and alert employees are permitted on/in the Village premises, on the Village job site locations and at any time while operating Village vehicles, or using Village equipment. This policy establishes guidelines for consistent handling of alcohol and drug usage situations throughout the Village of Tijeras.

A. Prohibited Behavior:

1. Use of illegal drugs;
2. Abuse of legal drugs or alcohol;
3. Use of alcohol or illegal drugs on Village time or property, to include scheduled or unscheduled break periods, meal times, and at all other times when the employee is considered "at work" for the Village;
4. Sale, purchase, transfer, use or possession of illegal drugs or drugs obtained illegally;
5. Transport of alcoholic beverages in Village vehicles during Village time, break periods, or meal times;
6. Arrival for work under the influence of drugs or alcohol.

An employee who is using prescription drugs or over-the-counter medications that could affect work performance must inform his/her supervisor. A written doctor's statement may be required at the Village's discretion.

B. Implementation:

The Clerk/Manager shall adopt procedures required by all applicable federal and state mandates to ensure the effective implementation of this policy. In addition to setting out the procedures for pre-employment testing and the random drug and alcohol testing of those employees covered by the federal regulations, the procedures shall provide for reasonable suspicion testing for drugs and alcohol for all Village employees.

C. Employee Assistant Plan

The Village Clerk/Manager or designee shall establish and communicate the availability of an employee assistance program for all Village employees. The Village Clerk/Manager or his/her designee shall for the benefit of all employees identify avenues for obtaining drug treatment and rehabilitation, outline available drug abuse counseling and educational programs, and describe any drug abuse rehabilitation benefits available through the Village's group health plan. Normal Village benefits, such as sick leave and the group medical plan, are available to aid in the rehabilitation process.

If the available assistance fails or is obviously inappropriate given the nature of the drug use and the employee's position, the penalty for drug use or alcohol abuse may be termination of employment

SECTION 15. SEXUAL HARASSMENT POLICY

Sexual harassment is defined as:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual.

Unwelcome sexual conduct, whether verbal or physical, which directly or indirectly interferes with another person's work performance or creates an intimidating, hostile, and offensive working environment.

SECTION 16. DISCIPLINARY ACTION, APPEAL, AND GRIEVANCE

A. Rules of Employee Conduct

Reasonable rules of employee conduct are necessary for the orderly and effective operation of the Village. Some of the more obvious examples of unacceptable conduct are listed below. This list is not all inclusive and is not intended to refer to all possible policy infractions. Employees should contact the Clerk/Manager or Deputy Clerk with any questions regarding the Village's rules of employee conduct. Prohibited behaviors include:

1. Violation of the Village personnel ordinance, policies, or rules.
2. Incompetence, inefficiency, or inadequate performance of an employee's duties.
3. Insubordination or uncooperative behavior.
4. Leaving work before the end of a workday or not being ready to work at the start of a workday without approval from the employee's supervisor; stopping work before the time specified for such purpose.
5. Failure to report an absence or late arrival; excessive absence or tardiness.

6. Use of official position or authority for personal profit or advantage, including a violation of the Governmental Conduct Act, Section 10-16-1, et seq. NMSA 1978 (as amended), which sets forth the ethical principles of public service and prohibits certain official acts. A copy of the Act is available from the Clerk/Manager.
7. Violation of security or safety practices.
8. Commission of a felony or misdemeanor related to the position held by the employee or conviction of a crime involving moral turpitude.
9. Violence or threats of violence toward anyone while on duty, on Village property, driving a Village vehicle or equipment, representing the Village or wearing a Village uniform. Fighting, horseplay, or provoking a fight is prohibited.
10. Obscene, abusive, or rude language or behavior toward any supervisor, employee, or member of the public; any disorderly or antagonistic conduct.
11. Malicious gossip and/or spreading rumors; engaging in behavior designed to create discord and lack of harmony; interfering with another employee on the job; willfully restricting work output or encouraging others to do the same.
12. Misappropriation or personal use of Village funds, property, or resources; theft or fraud.
13. Intentionally or negligently causing damage to Village tools, equipment, or other property;
14. Failure to immediately report damage to, or an accident involving, Village vehicles or equipment.
15. Violation of confidentiality or release of confidential information.
16. Deliberate falsification or omission of information on an employment application, resume, timecard/record, or other Village document.
17. Soliciting during work hours and/or on Village premises; selling merchandise or collecting funds of any kind for whatever purpose without the Clerk/Manager's prior approval, or at a time or place that interferes with the work of another employee on Village property or at a Village worksite.
18. Conducting a lottery or gambling on Village premises or while on duty.
19. Failure to maintain a neat, clean, and professional appearance or wearing unsafe clothing to perform employee's specific job duties.
20. Other acts or omissions, on or off-duty, that may result in disciplinary action include those that:
 - a. Call into question the employee's ability to perform assigned duties or job functions;
 - b. Harm public respect for the Village's employees or confidence in the operation of Village services; or
 - c. Impair the operation or efficiency of any Village function.

B. Just Cause for Disciplinary Action

Failure or refusal to meet the standards of employee conduct shall constitute just cause for disciplinary action. Regular full-time and regular part-time employees may be disciplined only for just cause. Unlike regular employees, probationary employees, temporary employees, limited-term employees and other at-will employees may be discharged without cause or for any lawful reason.

C. Progressive Discipline

Occasionally, disciplinary action is necessary to correct employee misconduct or performance that fails to meet expectations. The type of corrective or disciplinary action imposed will depend on the severity of the infraction and the employee's previous work record. Progressive discipline will normally be used; however, some infractions may be so serious that the first disciplinary action may require suspension without pay, demotion, or even dismissal.

D. Documentation

In every situation involving any form of corrective or disciplinary action, documentation of such action shall be prepared. Any such documentation given to an employee should be signed by the employee to acknowledge receipt. If the employee refuses to sign the documentation, another employee should be called in to sign the form as a witness to the fact that the counseled or disciplined employee received the documentation, but refused to sign it.

E. Range of Counseling and Discipline

The range of counseling and disciplinary action is as follows:

1. **Verbal Counseling.** A supervisor may verbally counsel an employee for minor infractions and to inform the employee that behavior or conduct needs to change or improve. The supervisor should inform the employee that the supervisor is verbally counseling the employee. Verbal counseling should: (A) remind the employee of pertinent policies and work rules; (B) provide examples of how the employee's behavior or performance has fallen short of expectations; (C) explain the impact of the employee's deficiencies on the Village and coworkers; (D) describe the actions the employee needs to take to correct the problem; and inform the employee that failure to improve may result in more severe discipline. Supervisors shall prepare a memorandum of the supervisor's own records indicating that the employee has received a verbal counseling. Documentation of a verbal counseling shall not be placed in the employee's personnel file. Verbal counseling is not grievable.
2. **Written Reprimand.** A supervisor may issue a written reprimand to an employee in circumstances where the infraction is perceived to be of a greater consequence than that for which a verbal counseling would be used or if the verbal counseling was ineffective.

A written reprimand shall include the following information: (A) the date(s) on which the unacceptable performance occurred and a brief description of the incident(s); (B) a reference to the policy(ies), rule(s) or directive(s) that were violated; (C) prior counseling or discipline, if any, imposed on employee during the employee's time with the Village; (D)

a statement of the potential disciplinary consequences if performance does not improve; and (E) the goals of improvement and a time frame, if applicable, to accomplish these goals.

Written reprimands shall be placed in the employee's personnel file after providing the employee with a copy of the written reprimand. The employee shall be asked to acknowledge having received the reprimand by signing it. If the employee refuses to sign, another supervisory level employee (by his/her signature) shall attest that the written reprimand was presented to the employee for his/her signature and the employee refused to sign. A written reprimand is not grievable.

3. **Suspension Without Pay.** The Mayor or Clerk/Manager may suspend an employee without pay for a single serious offense or for continued substandard job performance or misconduct after previous attempts to correct such behavior have failed. Such suspension shall not exceed thirty working days (30). A suspension without pay for a FLSA exempt employee shall be in workweek increments not to exceed six workweeks, unless otherwise provided by law. A regular, full-time or regular, part-time employee may appeal a suspension without pay pursuant to the Village's grievance procedures.
4. **Demotion.** The Mayor or Clerk/Manager may demote an employee in those instances where the employee is unwilling or unable to perform the responsibilities of his/her position. The employee may be moved from one position to another position with a lower pay rate for which the employee qualifies or, alternatively, the employee may be permitted to remain in the same position but will be subject to a reduction in his/her pay rate. Demotion is not to be used as a substitute for discharge from employment, when a discharge is warranted. A regular, full-time or regular, part-time employee may appeal a demotion pursuant to the Village's grievance procedures.
5. **Dismissal.** The Village Council may, upon the Mayor's recommendation which will be made in the form of a Notice of Intent to Discipline, dismiss an employee when other forms of discipline have failed to improve unacceptable behavior or job performance, or the employee's conduct is severe enough to preclude corrective action. A regular, full-time or regular, part-time employee may appeal a dismissal pursuant to the Village's grievance procedures.

Probationary employees, temporary employees, limited-term employees and other at-will employees may be discharged at any time without cause or for any lawful reason by the Mayor, Clerk/Manager or supervisor. These employees may not appeal a decision to dismiss them from employment pursuant to the Village's grievance procedures.

F. Notice of Intent to Discipline

The Mayor, Clerk/Manager, or designee shall present the employee with a Notice of Intent to Discipline when suspension, demotion, or dismissal is contemplated. The Notice of Intent to Discipline shall include the following information: (A) the date(s) on which the unacceptable performance or conduct occurred and a brief description of the incident(s); (B) a reference to the policy(ies), rule(s) or directive(s) that were violated; (C) prior counseling or discipline, if any, imposed on

employee during the employee's time with the Village; (D) a statement of the contemplated discipline; (E) a statement of the potential disciplinary consequences if performance does not improve; (F) the goals of improvement and a time frame, if applicable, to accomplish these goals; and (G) the employee's right to a pre-disciplinary hearing. The Notice of Intent to Discipline shall be hand-delivered to the employee and receipt acknowledged by him/her, or sent to the employee by certified mail, return-receipt requested. The Notice of Intent to Discipline shall be placed in the employee's personnel file after providing the employee with a copy. If the Notice of Intent to Discipline is hand-delivered and the employee refuses to sign it, another supervisory level employee (by his/her signature) shall attest that the Notice of Intent to Discipline was presented to the employee for his/her signature and the employee refused to sign.

G. Pre-Disciplinary Meeting and Notice of Final Action

Within three (3) working days of the receipt of the Notice of Intent to Discipline the employee shall notify the Clerk/Manager, in writing, whether he/she will avail him/herself of the pre-disciplinary meeting. Such notice shall be hand-delivered with receipt acknowledged. If the employee does not avail himself of the pre-disciplinary hearing, the Clerk/Manager shall issue a Notice of Final Action to the employee which shall:

1. Specify the final action to be taken and the factual basis for the final action;
2. Specify the effective date of the disciplinary action; and
3. Inform the employee of his/her right to appeal.

In the event the employee wishes to avail him/herself of a pre-disciplinary meeting, the nature of the pre-disciplinary meeting will depend on the type of discipline being proposed.

If the contemplated discipline is a suspension or demotion, the Clerk/Manager will meet with the employee at a pre-arranged time. At the pre-disciplinary meeting, the employee will be given the opportunity to respond to the allegations in the Notice of Intent to Discipline and offer explanations and/or present evidence and reasons supporting mitigation. No witnesses will be permitted at the informal meeting. This will not be an evidentiary hearing. Neither the Village nor the employee will not be permitted to have a representative present at the pre-disciplinary meeting.

If the contemplated discipline is termination, the Mayor's recommendation will be placed on the agenda for the executive session of the next regular meeting of the Village Council. During the executive session, the employee will be given the opportunity to respond to the allegations in the Notice of Intent to Discipline and offer explanations and/or present evidence and reasons supporting mitigation. No witnesses will be permitted to address the Council during executive session. This will not be an evidentiary hearing. The employee may have a representative present for the presentation to the Village Council. After hearing from the employee, the Council will excuse the employee and discuss the proposed termination. A vote will be taken during the public portion of the meeting.

After taking the employee's response into consideration, a Notice of Final Action shall be issued to the employee if it is determined that discipline is warranted. The Notice of Final Action shall specify the final action to be taken, and the factual basis on which the final action is based, state the time, date, and location of the pre-disciplinary meeting, persons present, the effective date of the final action, and the employee's right to appeal the disciplinary action.

The Notice of Final Action shall be either hand-delivered to the employee and receipt acknowledged by him/her or sent to the employee by certified mail, return-receipt requested. If the employee refuses to sign, another supervisory level employee (by his/her signature) shall attest that the Notice of Final Action was presented to the employee for his/her signature and the employee refused to sign. The Notice of Final Action shall be placed in the employee's personnel file. An employee who is dismissed for cause will not be considered for reemployment with the Village.

H. Administrative Leave with Pay Pending Investigation and/or Disciplinary Proceeding

The Mayor or Clerk/Manager may authorize administrative leave with pay when an employee is ordered to leave the premises or work site pending an investigation, while disciplinary action is being contemplated, and/or pending issuance of the Notice of Final Action. Generally, this leave is authorized when the employee is disruptive or poses a threat of harm to himself/herself, others, or Village property. During this period, the employee continues to accrue benefits as if he/she were still on duty.

Employees on paid administrative leave shall be available in person and telephonically between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Failure to comply or attend any scheduled meetings as directed by the employee's supervisor shall constitute an unauthorized leave without pay. Employees on paid administrative leave shall not obtain other employment. The supervisor will document the administrative leave and include expectations of the employee while on leave, including but not limited to the return of Village equipment.

Administrative leave with pay under these circumstances does not constitute discipline and may not be appealed under the Village's grievance procedures.

I. Grievance Procedure

1. **Applicability.** A regular employee who has successfully completed his/her probationary period may pursue grievances according to the rules contained in this Section.
2. **Attendance at Grievance Hearings.** Employees who have filed grievances and employees required to give testimony as witnesses in a grievance hearing shall be given time off with pay if such meetings or hearings are scheduled during their regularly scheduled work hours. Former employees, or employees on suspension, layoff, or other unpaid status shall not receive pay to attend grievance hearings.
3. **Conditions or Actions Not Grievable.** The following conditions or actions are not grievable:
 - a. Whether an established Village policy or practice is appropriate.
 - b. In matters where a method of review is mandated by law or where avenues of statutory review are available such as review which may be obtained through the filing of charges with the N.M. Human Rights Bureau or Equal Employment Opportunity Commission or the filing of a Worker's Compensation Claim.
 - c. In matters where the Village is without authority to act or does not have the ability to provide a remedy.
 - d. Disciplinary action for a probationary, temporary, limited-term, or other at-will employees.

- e. Verbal counseling, written reprimand, or job abandonment.
- f. Transfers, assignments, removal from assignments, temporary upgrades, and promotions.
- g. Position evaluation/audit, job evaluations, performance reviews, or selection for vacant positions.
- h. Denial or termination of self-employment/supplementary/outside employment.

J. Post-Discipline Appeal

A regular employee who has been suspended without pay, involuntarily demoted, or terminated may appeal his/her discipline to a neutral hearing officer.

1. Notice of Appeal. Within five (5) business days of receipt of the Notice of Final Action, the employee must give written notice to the Clerk/Manager of the employee's intent to pursue a post-disciplinary hearing. The written notice must be hand-delivered or mailed via certified mail, return receipt requested. This deadline is of the essence and strictly enforced. An employee's failure to comply with the provisions in this paragraph, including the deadlines will render the grievance null and void.
2. Hearing Officer. Within fifteen (15) calendar days of receipt of the employee's notice of appeal, Clerk/Manager will appoint a hearing officer who is a licensed New Mexico attorney, or a person experienced in personnel administration.
3. The hearing officer shall recuse him/herself if, for any reason, he/she cannot afford a fair and impartial hearing to either party. The employee or Village may ask to disqualify a designated hearing officer for cause by filing an affidavit of disqualification within ten (10) calendar days of the hearing officer's designation or immediately upon subsequently learning of the grounds for disqualification. The affidavit must state the particular grounds for disqualification. The designated hearing officer shall rule on motions for disqualification.
4. No person shall discuss the merits of the appeal with the hearing officer unless both parties or their representatives are present.
5. Pre-Hearing Conference. The hearing officer shall schedule and conduct a pre-hearing conference by such method deemed appropriate. Each party shall submit a pre-hearing statement by the date set by the hearing officer, containing the following information:
 - a. A statement of the issues;
 - b. Proposed stipulations of fact;
 - c. A list of witnesses to be called and a summary of their testimony;
 - d. A list of exhibits;
 - e. Requests for discovery;
 - f. Requests for subpoenas; and
 - g. Estimated amount of time needed for the hearing.

6. Pre-Hearing Order. The hearing officer shall issue a Pre-Hearing Order which shall contain:
 - a. The issue(s) to be heard;
 - b. Stipulations of fact;
 - c. Deadline for disclosure of all witnesses and documentary evidence;
 - d. Deadline for the close of all discovery;
 - e. Deadline for filing pre-hearing motions and the manner in which they will be heard or acted upon;
 - f. Deadline for filing proposed findings of fact and conclusions of law; and
 - g. Hearing location and date, which may be continued only for good cause.
7. Rules of Procedure for Hearing
 - a. All hearings shall be open to the public unless the parties mutually agree to the contrary.
 - b. The hearing officer shall follow the evidentiary standards for administrative hearings.
 - c. Either party may be represented at the hearing by a person of their choosing provided the representative has submitted a written entry of appearance prior to the hearing.
 - d. The Village shall be entitled to have an employee representative in the hearing room during the course of the hearing.
 - e. The hearing officer shall clear the hearing room of all witnesses if requested by either party prior to commencing the hearing.
 - f. The Village shall present its evidence first.
 - g. Oral evidence shall be taken only under oath.
 - h. The hearing shall be conducted in an orderly manner.
 - i. The hearing officer may admit evidence if it is evidence upon which reasonable persons are accustomed to rely on for the conduct of serious affairs. The hearing officer may exclude immaterial, irrelevant or unduly cumulative testimony.
 - j. The hearing officer may take administrative notice of those matters of which the courts of this State may take notice.
 - k. A record of the hearing shall be made by a certified court reporter arranged by the Village. If a certified court reporter is utilized, the Village shall pay only the court reporter's appearance fee. No transcript shall be produced, unless one is requested by a party and such requesting party shall be responsible for the cost of the transcript.
8. Appeal Hearing Decision
 - a. The hearing officer shall prepare a written decision upholding, reversing or modifying the disciplinary action within thirty calendar (30) days of the conclusion of the

hearing or at a time mutually agreed upon by the parties at the close of the hearing. The decision shall contain findings of fact and conclusions of law. The decision shall be served on the parties by electronic mail, fax or mail. The employee or the Village may appeal the hearing officer's decision to district court within 30 days after the date of the hearing officer's decision pursuant to SCRA 1-074.

- b. In the event the hearing officer has reversed or modified the disciplinary action, the hearing officer shall have the authority to only award back wages and Village contributed benefits to the employee. The hearing officer shall have no authority to grant attorney fees, costs or interest in connection with any award of back wages or benefits. In the event the panel or hearing officer awards back wages, the employee shall file a sworn statement of gross earnings and unemployment compensation since the effective date of the disciplinary action. The Hearing Officer shall offset earnings and unemployment compensation received during the period against the back wages awarded. After a written decision is issued, the hearing officer shall retain jurisdiction of the case for the sole purpose Village contributed benefits.
- c. The Village shall pay the hearing officer's fees and expenses.
- d. Each party shall pay all of its own attorney fees and costs.

SECTION 17. HOURLY/SALARY EMPLOYEES

All hourly Village employees are entitled to all the rights and benefits described in the Personnel Ordinance, except where specifically stated otherwise.

Salaried employees are entitled to all the rights and benefits of hourly employees, except that they are terminable at will, with or without cause, have no recourse under the disciplinary or grievance procedure outlined in this Ordinance. Elected officials, members of board, commissioners and authorities who are not regular employees of the Village shall not be covered by the Personnel Ordinance. Salaried employees shall also be eligible to participate in the life and medical insurance benefits authorized for hourly employees. All temporary and seasonal employees, along with part-time employees, shall also be classified as terminable at will, with or without cause, having no recourse under the disciplinary or grievance procedure outlined in this Ordinance.

A. Exempt Employees

All employees are deemed to be non-exempt from the provisions of the federal Fair Labor Standards Act except those who are specifically designated as exempt, including:

- I. Village Clerk/Manager
- II. Deputy Clerk
- III. Finance Director

B. Temporary and Seasonal Employees

Temporary and seasonal employees are not entitled to any of the rights and benefits to which other employees may be entitled.

C. Elected Officials

Elected Officials shall have the option of participating in Village of Tijeras medical benefits.

SECTION 18. COMPUTER AND CELL PHONE USE

A. Cell Phones

Village employees who are issued a cell phone shall stay within allowed minutes and data. Any exceeded minutes or data shall be reimbursed by the employee to the Village. Personal use of Village cell phones while on Village time is prohibited.

Abuse of the cell phone policy may result in disciplinary action and/or termination.

B. Computers

Village employees who utilize Village computers should use the computers for Village business. Personal use of Village computers while on Village time is prohibited.

1. Village time shall be considered any time in which a public official is receiving wages paid by the Village.

Abuse of the computer use policy may result in disciplinary action and/or termination.

Appendix B

COMMUNITY BLOCK GRANTS*

Article I. Citizen Participation Plan

Article II. Relocation Policy

- I. Permanent Relocation.
- II. Temporary Relocation - Owner Occupied Units.
- III. Grievance Procedure.
- IV. Tenant Assistance Policy.

Article III. Procurement Policy

***Editor's note**—Printed herein are the ordinances adopted regarding Community Development Block Grants granted to the village. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.

ARTICLE I. CITIZEN PARTICIPATION PLAN*ORDINANCE # 63
CITIZEN PARTICIPATION PLAN

AN ORDINANCE PROVIDING FOR A CITIZEN PARTICIPATION PLAN BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF TIJERAS.

Introduction

In accordance with the 1987 revisions to the Housing and Community Development Act and in an effort to further encourage citizen participation, the Village of Tijeras has prepared and adopted this Citizen Participation Plan.

Objective A

The Village of Tijeras will provide for and encourage citizen participation within their areas of jurisdiction with particular emphasis on participation by persons of low and moderate income.

1. Adopt and circulate an Open Meetings Resolution which provides citizens with reasonable notice of Village upcoming meetings, actions, functions.
2. Develop press releases on Village meetings, actions and hearings and circulate to newspapers, churches, and local businesses and organizations.
3. Develop and maintain listings of groups and representatives low and moderate income persons and include on mailing lists for announcements, notices, press releases, etc.

Objective B

The Village of Tijeras will provide citizens with reasonable and timely access to local meetings, information and records relating to the proposed and actual use of CDBG funds.

1. Public notices, press releases, etc., should allow for a maximum length of notice to citizens.
2. Appropriate information and records relating to the proposed and actual use of CDBG funds must be available upon request to all citizens. Personnel and income records may be exempted from these requirements.
3. Meetings, hearings, etc., should be conducted at times and locations conducive to public attendance, e.g., evenings, Saturdays.

Objective C

The Village of Tijeras will provide for technical assistance to groups and representatives of low and moderate income persons that request assistance in developing proposals.

***Editor's note**—Printed herein is Ordinance Number 63, adopted on June 14, 1993 in compliance with the 1987 revisions to the Housing and Community Development Act regarding Community Development Block Grants granted to the village.

(Special note: the level and type of assistance is to be determined by the Village.)

1. Low/moderate income groups should be advised that technical assistance, particularly in the area of community development, is available from Village of Tijeras upon request.
2. The Village of Tijeras will document all technical assistance provided to such groups and have documentation available for review.

Objective D

The Village of Tijeras will provide for public hearings to obtain citizen participation and respond to proposals and questions at all stages of the Community Development Block Grant Program.

1. The Village of Tijeras will advise citizens of the CDBG Program objectives, range of activities that can be applied for and other pertinent information.
2. The Village of Tijeras will conduct a minimum of two (2) public hearings:
 - a. One public meeting will be held for purpose of obtaining the views of citizens on community development and housing needs to include the needs of low and moderate income people. This hearing will take place prior to the selection of the project to be submitted to the State for CDBG funding assistance.
 - b. A second public hearing will be held for the purpose of gaining citizen input on the particular application to be submitted to the State for CDBG funding consideration.
3. The Village of Tijeras will review program performance, past use of CDBG Funds and make available to the public its community development and housing needs including the needs of low and moderate income families and the activities to be undertaken to meet such needs.
4. Public hearing notices will be published in the legal section of newspapers or in other local media. Evidence of compliance with these regulations will be provided with each CDBG application, i.e., hearing notice, minutes of public meetings, list of needs and activities to be undertaken, etc. Amendments to goals, objectives and applications are also subject to public participation.

Objective E

The Village of Tijeras will provide for timely written answers to written complaints and grievances within 15 working days where practicable.

1. The Village of Tijeras will adopt complaint handling procedures of policies to insure[ensure] that complaints or grievances are responded to within 15 days, if possible.
2. Procedures will allow for appeal of a decision to a neutral authority.
3. A detailed record of all complaints/grievances and responses will be filed in one central location with easy public access provided.

Objective F

The Village of Tijeras will identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

1. The Village of Tijeras will identify areas where large majorities of non-English speaking persons reside and make appropriate provisions when issues affecting these areas are to be discussed at public meetings, hearings, etc. Appropriate provisions will include having interpreters available at the meeting and/or having briefing materials available in the appropriate language.
2. Maintain records/rosters of public hearing attenders and proceedings to verify compliance with this objective.

ARTICLE II. RELOCATION POLICY*

ORDINANCE #67

LOCAL RELOCATION POLICY

WHEREAS, The Village of Tijeras, State of New Mexico, hereinafter referred to as the locality, is undertaking a Community Development Block Grant Program under the provisions of the Housing and Community Development Act of 1974 (Public Law 93-383) and amendments thereto;

WHEREAS, The Housing and Community Development Act of 1974 requires compliance with the relocation requirements of the Uniform Relocation and Real Property requirements of the Act of 1970, hereinafter referred to as the Uniform Act, and implementing regulations issued by the Department of Housing and Urban Development (49 CFR Part 24) when the acquisition of real property occurs; and

WHEREAS, The locality wishes to provide a local policy covering all probable types of relocation which may be necessary in accomplishing C.D.B.G. related activities, the following policy is hereby adopted:

I. Permanent Relocation.

All persons, families, or businesses permanently displaced as a result of C.D.B.G. funded activities, shall be provided with relocation assistance and compensation as authorized by the Uniform Act. Procedures and forms shall be in accordance with the Federal Regulations at 49 CFR Part 29.

II. Temporary Relocation - Owner Occupied Units.

Program activities shall be planned and carried out in a manner that minimizes hardships to occupants of houses being rehabilitated in accordance with the C.D.B.G. Program.

***Editor's note**—Printed herein is Ordinance Number 67, adopted on November 8, 1993 in compliance with the 1987 revisions to the Housing and Community Development Act regarding Community Development Block Grants granted to the village.

When a homeowner requests and receives a grant or loan for the purpose of rehabilitating his home, he becomes eligible for temporary relocation assistance providing the nature of the rehabilitation is such that the occupants could not continue to live in the dwelling during rehabilitation as determined by the Village of Tijeras C.D.B.G. Program.

Arrangements will be made to provide temporary assistance in accordance with the needs of those being temporarily displaced, including social services, counseling, guidance, assistance, and referrals.

III. Grievance Procedure.

Grounds.

You have the right to appeal any action of the Village of Tijeras on the following grounds:

- Failure to properly determine your eligibility for, or the amount of a relocation or other payment due you under the Uniform Act;
- Refusal to waive the time limit for filing a claim or the one-year purchase and occupancy requirement;
- Failure to properly inspect the replacement dwelling;
- Failure to comply with a requirement providing a Comparable Replacement Dwellings Prior to Displacement; and

Your acceptance of the amount offered you by the Village of Tijeras does not limit your right to appeal the Village of Tijeras's determination and seek a larger payment.

Methods and Time Limits for Initiating an Appeal.

If your appeal concerns your eligibility for, or the amount of, a payment, you must file your appeal within six (6) months after the Village of Tijeras notifies you of its determination on your claim.

If your appeal concerns an alleged failure to provide appropriate housing referrals or to properly inspect the replacement dwelling or Availability of Comparable Replacement Dwellings Prior to Displacement, you must file your appeal within six (6) months after you have been displaced from your home or apartment.

If your appeal concerns an alleged failure to comply with Notice of Right to Continue in Occupancy, you must file your appeal no later than six (6) months after (a) your permanent move from your home or apartment; or (b) the end of the four-year occupancy period, whichever comes first.

If your appeal concerns the Village of Tijeras refusal to waive the one-year purchase and occupancy requirement, your appeal must be filed within thirty (30) days after the refusal.

You must make a request to the Village of Tijeras, either orally or in writing, to make an oral appeal. The Village of Tijeras will provide you with the opportunity for an oral presentation with fifteen (15) days of your request. If the Village of Tijeras does not grant your grievance, you will be so notified and informed you have the right to make a written appeal. However, the request for an oral presentation does not entitle you to any postponement of displacement.

Costs associated with a temporary move may be included in the rehab grant if no personal resources are available to the occupant of the dwelling to be rehabilitated. These costs normally may not exceed \$350.00. Hardship situations will be considered on an individual basis. Cost which may be charged to the rehabilitation contract include.

- Actual reasonable moving costs to the temporary relocation.
- Actual reasonable cost for cost of renting the temporary unit. (Normally not to exceed 30 days).
- Actual reasonable cost for storage of furniture that cannot be housed in the temporary unit in the event that the family can find shelter for themselves but not their belongings.
- Actual reasonable cost of moving from the temporary location back to the rehabilitated dwelling.

Eligible recipients shall not be relocated until the contractor is prepared to begin rehabilitation work and shall be returned to their homes immediately upon final inspection of their homes. All reasonable costs must be documented by dated invoices from the parties receiving the remuneration. Procedures and forms shall be in accordance with the HUD Relocation Handbook 1376.1., as revised.

IV. Tenant Assistance Policy.

No tenant shall be considered permanently displaced if the tenant can return to his or her unit after rehabilitation at a cost not to exceed 30% of his or her family income.

No person displaced by rental rehabilitation activities will be discriminated against. All displaced persons shall be equally provided information, counseling, referrals, relocation services and relocation payments, if eligible.

No person shall be displaced because of age, race, color, religion, sex, handicap, or national origin.

All persons will be provided with information and counseling to familiarize tenants in the projects to be rehabilitated with: (1) opportunities to select replacement dwellings from a full range of neighborhoods within the total housing market; (2) individual rights under the Fair Housing Law; and (3) how to search for suitable replacement housing.

You must also file a written request for review. Include any statement or other material which you feel has a bearing on your appeal. If more time is needed to gather and prepared additional material for review, you may be granted additional time so you have at least thirty (30) days from the date of receiving notification of the decision concerning your appeal. If you need assistance in preparing your material, the Village will help you and will also tell you about other available sources of assistance. After you have submitted the new information in support of your request for review, the Village will reach a decision within thirty (30) days. It will send you a copy of the decision, a statement of the facts and legal basis upon which it is based, a description of how any new payments of relief will be provided to you, and, if your appeal was not totally granted, a statement of your right to appeal the Village's decision to the New Mexico Department of Finance, Local Government Division.

In any review of your appeal by the Village or the State, you have the right to be represented by a lawyer or other counsel, and you may appeal any final decision by the State to the Courts.

If you have any questions concerning these procedures, do not hesitate to contact the Village Clerk at (505) 281-1220.

ARTICLE III. PROCUREMENT POLICY*

ORDINANCE 68

VILLAGE OF TIJERAS PROCUREMENT POLICY

The Village of Tijeras Governing Body adopts the following Procurement Procedures for the C.D.B.G. Programs.

Code of Conduct.

No employee, officer, or agent of the grantee shall participate in the selection or in the award or administration of a contract supported by C.D.B.G. funds if a conflict of interest, real or apparent, would be involved. Such a conflict could arise if the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the above, has a financial or other interest in the firm selected for award.

No officer, employee or agent of the grantee shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements, except where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

Any alleged violations of these standards of conduct shall be referred to the District Attorney. Where violations appear to have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including but not limited to: dismissal or transfer; when violations or infractions appear to be substantial in nature, the matter may referred to appropriate officials for criminal investigation and possible prosecution.

Procurement Procedures.

The grantee designated purchasing officer responsible for procurement of services, supplies, equipment or construction obtained with C.D.B.G. funds shall review all proposed procurement actions to avoid the purchase of unnecessary or duplicative items. Such reviews shall consider consolidation or breaking out to obtain a more economical purchase. When determined appropriate by the grantee, an analysis to determine which approach would be the most economical shall be undertaken. Procurement requirements, however, may not be divided so as to constitute a small purchase.

The purchasing officer shall take affirmative steps to assure that small and minority firms, and women's business enterprises, are solicited whenever they are potential qualified sources. The purchasing officer shall also consider the feasibility of dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority firms, and women's business enterprises.

***Editor's note**—Printed herein is Ordinance Number 68, adopted on November 8, 1993 in compliance with the 1987 revisions to the Housing and Community Development Act regarding Community Development Block Grants granted to the village.

Where permitted by regulations, delivery schedules will be developed which will include participation by such businesses. Where possible, evaluation criteria will include a factor with an appropriate weight for these firms.

In identifying small and minority firms, assistance can be requested from the Minority and Small Business Development Program Office of the General Services Department in Santa Fe at 827-0425. Their address is 1100 St. Francis Drive, Room 2150, Joseph Montoya Building, Santa Fe, N.M. 87503.

All prime contracts shall be required to take the affirmative steps described in the preceding paragraph. The purchasing officer shall assist the prime contractor whenever possible by providing copies of lists which identify qualified small and minority firms, women's business enterprises and labor surplus area firms. The New Mexico State Highway Department has developed a directory of minority business firms which have the ability to perform construction, provide services or supply materials associated with the highway industry and related activity.

Selection Procedures.

All procurement carried out with C.D.B.G. funds where the grantee is a direct party, shall be carried out in a manner that provides maximum free and open competition. Examples of what is considered to be restrictive of competition include, but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business;
2. Noncompetitive practices between firms;
3. Organizational conflicts of interest; and
4. Unnecessary experience and bonding requirements.

Pursuant to State law, all solicitations of offers shall incorporate a clear accurate description of the technical requirements for the material, service or product to be procured. In competitive procurements, these descriptions shall not contain features which unduly limit competition. The description may include a statement of the qualitative nature of the material, product or service and the minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications shall be avoided whenever possible. A "brand name or equal" description may be used to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

All solicitations of offers shall clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids, proposals, or statements of qualifications. Contracts shall be awarded only to responsible bidders/offerors that possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such factors as bidder capacity, integrity, compliance with public policy, record of past performance, and financial and technical resources.

Method of Procurement.

Direct procurement by the grantee shall be made by the following methods:

Small Purchase Procedures.

Relatively simple, informal procurement procedures will be used where the services, other than professional services, supplies or other property will not cost in the aggregate more than \$10,000 except where further limited by State Law or C.D.B.G. policy. Please refer to the State Procurement Code for State limitations contracting for the purchase of materials which exceeds \$5,000 shall not use the Small Purchase Method. The procurement officer must obtain price or rate quotations from an adequate number of qualified sources.

Competitive Sealed Bids/Formal Advertising

Under this procedure bids are publicly solicited. A firm fixed price contract (either lump sum or unit price) shall be awarded to the responsible bidder whose bid is lowest in price and which conforms to all the material terms and conditions of the invitation for bid

Competitive sealed bids can be used ONLY when the following criteria are met:

1. There are complete, adequate, realistic specifications or purchase descriptions;
2. Two or more responsible bidders who are willing and able to compete effectively;
3. The procurement can be made on a firm fixed-price contract and selection of the successful bidder can approximately be made principally on the basis of price.

When formal advertising is used the following conditions shall be met:

1. Bids shall be solicited from an adequate number of known suppliers at a sufficient time prior to the date set for the opening of the bid. The Invitation for Bid shall be publicly advertised in accord with State Law.
2. The Invitation for Bids, including the specifications and pertinent attachments shall clearly define the items or services needed in order for the bidders to properly respond to the Invitation.
3. All bids shall be opened publicly at the time and place specified in the Invitation for Bid.
4. A firm fixed-price contract award shall be made by written notice to the lowest responsible bidder whose bid conforms to the Invitation for Bids. Where specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts shall only be used to determine low bid when prior experience indicates that such discounts are generally taken.
5. Notwithstanding the above, any or all bids may be rejected when there are sound documented business reasons in the best interest of the C.D.B.G. Program.

Competitive Negotiations/Requests for Proposals/Statements of Qualifications.

This method may be used when formal advertising is not appropriate. Architectural, engineering, planning and other services will normally be procured via competitive negotiations. The following procedures will be used for competitive negotiations:

1. Proposals or Statements of Qualifications shall be solicited from a minimum of three qualified sources to permit reasonable competition. All reasonable submittals will be honored and entered into the competition.

2. The RFP shall identify all significant evaluation factors, including price and cost where applicable and their relative importance.
3. The selecting official (or committee if one is designated) shall review all Proposals and Statements received and make a technical evaluation of each. This shall include a written statement that identifies the basis upon which the selection was made.
4. Contract award will be made to the reasonable offeror whose submission is deemed most advantageous to the grantee with consideration for price, qualifications and other factors. Unsuccessful offerors shall be notified within ten (10) days of contract award. Documentation of notification shall be maintained in the contract selection file for the individual project.
5. When a project is clearly defined, only the qualifications of competitors will be evaluated (Statements of Qualifications). The most qualified competitor will be selected to enter into contract negotiations. This shall always include negotiations of price to insure cost reasonableness. At the conclusion of successful negotiations, the competitor shall include:
 - a. Specialized experience and technical competence of the Offeror and proposed personnel in connection with the type of services required and the complexity of the project.
 - b. Past performance on contracts with the grantee, HUD, and other public and private clients, including such factors as cost control, quality of work, and ability to meet schedules.
 - c. The ability of the Offeror to handle the work, including specialized services, within schedule, taking into consideration the current/planned workload of the firm.
 - d. Familiarity of the Offeror with the types of problems applicable to the project.
 - e. Avoidance of personal and organizational conflicts of interest prohibited under state and local law and policy.
 - f. Compliance with Section 3 of the Housing and Urban Development Act of 1960 included in the C.D.B.G. Contract.

Noncompetitive Negotiations/Sole Source.

Noncompetitive negotiation shall be used when small purchase, formal advertising, or competitive negotiation procedures are not feasible. Noncompetitive negotiations will involve solicitation of a proposal from only one source. This can also occur if solicitations under the competitive negotiation procedures results in only one proposal. Noncompetitive negotiation shall only be used when the following criteria have been met:

1. The item or service is only available from a single source;
2. It is determined that a public urgency or emergency exists and the urgency of the requirement will not permit the delay incident to competitive solicitation;
3. The State authorizes noncompetitive negotiation;
4. After solicitation of a number of sources, competition is determined to be inadequate.

Noncompetitive contracting will be considered in procurement activities where cost is not the primary factor. The methods of procurement shall be solicitation of proposals through advertisement or other means; review and evaluation of the proposal by predetermined criteria; and negotiation of a contract. Negotiation is to include consideration of cost to assure reasonableness.

Contract Pricing.

Cost plus percentage of cost and percentage of construction cost methods **MUST NOT** be used. The grantee purchasing agent shall perform cost or pricing analysis in connection with **EVERY** procurement action including contract modifications. Costs or prices based on estimated costs for C.D.B.G. projects shall be allowed only to the extent that the costs incurred or the cost estimates included in negotiated prices are consistent with federal cost principals. Cost reimbursements, fixed price, per contracts, or a combination thereof may be utilized as appropriate.

A cost reimbursement type contract is most appropriate when the scope and extent of the work to be performed are not clearly defined. A cost reimbursement contract **MUST** clearly establish a cost ceiling which may not be exceeded without formally amending the contract, and must identify a fixed dollar profit which may not be increased unless there is a contract amendment which increases the scope of work.

A fixed price contract is appropriate when the scope of work is very well defined and product oriented. A fixed price contract **MUST** establish a guaranteed price, which may not increase unless there is a contract amendment that increases the scope of work.

A per diem contract expected to exceed \$10,000 will not be considered unless the grantee with approval from the local government division has determined that a cost reimbursable or fixed price contract is not appropriate. Cost and profit included in the per diem rate **MUST** be specifically negotiated and shown separately in the proposal. The contract must clearly establish a ceiling price which may not be exceeded without formally amending the contract.

The grantee may use a multiplier type of compensation under either the cost reimbursement or fixed price contract. The multiplier and the portions of the multiplier applicable to overhead and profit must be specifically negotiated and separately identified in the contract.

Procurement Record.

The grantee procurement officer shall maintain records sufficient to detail the significant history of the procurement. The records shall include the following contract provisions and conditions:

1. Contracts other than small purchase shall contain provisions which allow for administrative, contractual, or legal remedies if contractors violate or breach contract terms, and provide for sanctions and penalties as appropriate.
2. All contracts in excess of \$10,000 shall provide for termination by the grantee including the manner in which it will be done and the basis for settlement. The termination clauses shall be for default as well as because of circumstances beyond the control of the contractor.

3. Contracts and subcontracts in excess of \$10,000 shall include provision which require compliance with Executive Order 11246, entitled Equal Opportunity, as amended by Executive Order 11375, and as supplemented in DOL regulations (41 CFR Part 60).
4. All contracts and subcontracts in excess of \$10,000 for construction or repair shall include a provision for compliance with Copeland "Anti-Kick-Back" Act (18 USC 874) as supplemented by DOL regulations (29 CFR Part 3).
5. All contracts or subcontracts in excess of \$2,000 for construction or repair shall include a provision for compliance with Davis-Bacon Act (40USC 276a to a-7) as supplemented by DOL regulations (29, CPR Part 5).
6. All contracts or subcontracts in excess of \$2,000 for construction or repair shall include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by DOL regulations (29 CFR Part 5).
7. Each contract shall include notice of State requirements and regulations pertaining demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of State requirements pertaining to copy rights and rights in data.
8. All negotiated contracts except for those awarded under small purchase procedures shall include a provision that makes it possible for the State, HUD, the Controller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, records of the Contractor which are directly pertinent to the contract, for the purpose of making audit examination excerpts and transcriptions. Further, the contract must include a provision that all required records will be maintained by the contractor for a period of six (6) years after the local government division formally closes out the C.D.B.G. project.
9. All contracts, subcontracts, and subgrants in amounts in excess of \$100,000 shall contain a provision which requires compliance with the requirements of Sections 306 and 508 the Clean Air Act (42 USC a857 (h) and 33 USC 1368) and Environmental Protection Agency Regulations (40 CFR Part 15).
10. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-164).
11. The grantee will be permitted to require changes, remedies, changed conditions, access and record retention and suspension of work clauses approved by the State.

Contract Administration.

The grantee shall maintain contract administration systems which insure that contracts perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

RECOMMENDED FACTORS FOR AWARD/EVALUATION CRITERIA

REQUEST FOR PROPOSAL

1. Technical Approach/Understanding of Problems 30 pts.

Art. III

TIJERAS CODE

2.	Work Management Plan	10 pts.
3.	Experience of Proposed Personnel	15 pts.
4.	Corporate Experience	15 pts.
5.	Success with like projects	10 pts.
6.	Familiarity with Local Context	10 pts.
7.	Experience with CDBG projects	10 pts.
	Total Possible Points	100 pts.

SHOULD BE BROKEN DOWN AS FOLLOWS:

A.	Basic Fees, not to exceed	\$ N/A
B.	Other Professional, not to exceed	\$ N/A
C.	Reimbursables, not to exceed	\$ N/A
D.	Inspection, not to exceed	\$ N/A
	TOTAL COST	\$ N/A
	TOTAL POINTS	\$ N/A

NOTE: Price cannot be a factor.

Appendix C

WATER PROJECT FUND LOAN/GRANT AGREEMENT*

***Editor's note**—Printed herein is Ordinance Number 144, adopted on September 13, 2010, regarding the Water Project Fund Loan/Grant Agreement of the Village of Tijeras. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.

APPENDIX C—WATER PROJECT FUND LOAN

[Form of Summary of Ordinance for Publication]

Village of Tijeras

Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. _____, duly adopted and approved by the Village Council of the Village of Tijeras on September 13, 2010. A complete copy of the Ordinance is available for public inspection during normal and regular business hours in the office of the Village Clerk/Treasurer, at #12 Camino Municipal, Tijeras, New Mexico 87059.

The title of the Ordinance is:

VILLAGE OF TIJERAS

ORDINANCE NO. 144

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A WATER PROJECT FUND LOAN/GRANT AGREEMENT BY AND BETWEEN THE NEW MEXICO WATER TRUST BOARD AND THE NEW MEXICO FINANCE AUTHORITY (THE "LENDERS/GRANTORS") AND THE VILLAGE OF TIJERAS (THE "BORROWER/GRANTEE"), IN THE AMOUNT OF SIX HUNDRED SEVENTY-FIVE THOUSAND SEVEN HUNDRED FORTY DOLLARS (\$675,740), EVIDENCING AN OBLIGATION OF THE BORROWER/GRANTEE TO UTILIZE THE LOAN/GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF EXTENDING THE WATER DISTRIBUTION SYSTEM OF THE BORROWER/GRANTEE, AND SOLELY IN THE MANNER DESCRIBED IN THE LOAN/GRANT AGREEMENT; PROVIDING FOR PAYMENT OF THE LOAN AMOUNT SOLELY FROM PLEDGED REVENUES; CERTIFYING THAT THE LOAN/GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE BORROWER/GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE LOAN/GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS ORDINANCE; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE LOAN/GRANT AGREEMENT.

A general summary of the subject matter of the Ordinance is contained in its title.

This notice constitutes compliance with Section 6-14-6, NMSA 1978.

[End of Form of Summary for Publication]

Governing Body Member Don Johnson then moved adoption of the foregoing Ordinance, duly seconded by Governing Body Member Maxine Wilson

TIJERAS CODE

6. No material adverse change has occurred, nor has any development occurred involving a prospective material and adverse change in, or affecting the affairs, business, financial condition, results of operations, prospects, or properties of the Borrower/Grantee since the date of the Ordinance.
7. To our knowledge, none of the events of default referred to in Article X of the Loan/Grant Agreement has occurred.
8. There is no threatened action, suit, proceeding, inquiry or investigation against the Borrower/Grantee, at law or in equity, by or before any court, public board or body, nor to our knowledge is there any basis therefor, affecting the existence of the Borrower/Grantee or the titles of its officials to their respective offices, or seeking to prohibit, restrain or enjoin the pledge of the Pledged Revenues to pay the principal, interest or administrative fees on the Loan/Grant Agreement, or in any way materially adversely affecting or questioning (a) the use of the proceeds of the Loan/Grant Agreement for the Project and to pay certain expenses as described therein, (b) the validity or enforceability of the Loan/Grant Agreement or any proceedings of the Borrower/Grantee taken with respect to the Ordinance or the Loan/Grant Agreement, (c) the execution and delivery of the Loan/Grant Agreement, or (d) the power of the Borrower/Grantee to carry out the transactions contemplated by the Ordinance and the Loan/Grant Agreement.
9. The Borrower/Grantee has complied with all the covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to the date hereof, and the representations and warranties of the Borrower/Grantee contained in the Loan/Grant Agreement and in the Ordinance are true and correct as of the date hereof.
10. The Borrower/Grantee is not in default, and has not been in default within the ten (10) years immediately preceding the date of this Certificate, in the payment of principal of, premium, if any, or interest on any bonds, notes or other obligations which it has issued, assumed or guaranteed as to payment of principal, premium, if any, or interest.
11. To our knowledge, neither the Mayor, the Village Clerk/Treasurer, any member of the Governing Body of the Borrower/Grantee, nor any other officer, employee or other agent of the Borrower/Grantee is interested (except in the performance of his or her official rights, privileges, powers and duties), directly or indirectly, in the profits of any contract, or job for work, or services to be performed and appertaining to the Project.
12. Regular meetings of the Borrower/Grantee's Governing Body and the meeting at which the Ordinance was adopted have been held at the Municipal Offices, #12 Camino Municipal, Tijeras, New Mexico, the principal meeting place of the Borrower/Grantee.
13. The Borrower/Grantee's Governing Body has no rules of procedure which would invalidate or make ineffective the Ordinance or other action taken by the Borrower/Grantee's Governing Body in connection with the Loan/Grant Agreement. The Open Meetings Act Resolution adopted and approved by the Governing Body on February 8th, 2010 establishes notice standards for meetings of the Governing Body. The Open Meetings Act Resolution has not been

APPENDIX C—WATER PROJECT FUND LOAN

amended or repealed. All action of the Governing Body with respect to the Ordinance and the Loan/Grant Agreement was taken at meetings held in compliance with the Open Meetings Act Resolution.

14. The Mayor and the Village Clerk/Treasurer, on the date of the signing of the Loan/Grant Agreement and on the date of this Certificate, are the duly chosen, qualified and acting officers of the Borrower/Grantee authorized to execute the Loan/Grant Agreement.
15. This Certificate is for the benefit of the NMFA and the Water Trust Board.
16. This Certificate may be executed in counterparts.

Appendix D

LOAN AGREEMENT WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT*

Section 1.	DEFINITIONS.
Section 2.	RATIFICATION.
Section 3.	FINDINGS.
Section 4.	SYSTEM.
Section 5.	AUTHORIZATION OF PROJECT.
Section 6.	AUTHORIZATION OF LOAN AGREEMENT.
Section 7.	SPECIAL LIMITED OBLIGATIONS.
Section 8.	OPERATION OF PROJECT.
Section 9.	USE OF PROCEEDS.
Section 10.	ANNUAL LOAN REPAYMENT ACCOUNT.
Section 11.	APPLICATION OF REVENUES.
Section 12.	LIEN OF LOAN AGREEMENT AND NOTE.
Section 13.	OTHER OBLIGATIONS.
Section 14.	DEFAULT.
Section 15.	ENFORCEMENT; VENUE.
Section 16.	REMEDIES UPON DEFAULT.
Section 17.	DUTIES UPON DEFAULT.
Section 18.	TERMINATION.
Section 19.	AMENDMENT OF ORDINANCE.
Section 20.	ORDINANCE IRREPEALABLE.
Section 21.	SEVERABILITY CLAUSE.
Section 22.	REPEALER CLAUSE.

***Editor's note**—Printed herein is Ordinance Number 163, adopted on March 20, 2017, regarding the Loan Agreement with the New Mexico Environment Department. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.

APPENDIX D—LOAN AGREEMENT

ORDINANCE NO. 163

AUTHORIZING THE VILLAGE OF TIJERAS (BORROWER) TO ENTER INTO A LOAN AGREEMENT WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT (NMED) FOR THE PURPOSE OF OBTAINING WASTEWATER CONSTRUCTION LOAN FUNDS IN THE PRINCIPAL AMOUNT OF \$700,000.00 PLUS ACCRUED CONSTRUCTION INTEREST AND LOAN SUBSIDY GRANT FUNDS IN THE AMOUNT OF \$150,000.00; DESIGNATING THE USE OF THE FUNDS FOR THE PURPOSE DEFINED IN THE MOST CURRENT PROJECT DESCRIPTION FORM AS APPROVED BY NMED; DECLARING THE NECESSITY FOR THE LOAN; PROVIDING THAT THE LOAN WILL BE PAYABLE AND COLLECTIBLE SOLELY FROM THE MUNICIPAL GROSS RECEIPTS TAX; PRESCRIBING OTHER DETAILS CONCERNING THE LOAN AND THE SECURITY THEREFOR.

Capitalized terms used in the following preambles are defined in Section 1 of this Ordinance, unless the context requires otherwise.

WHEREAS, the Borrower is a legally and regularly created public body organized under the general laws of the State of New Mexico (State); and

WHEREAS, the Borrower now owns, operates and maintains a public utility constituting a water and wastewater conveyance and treatment system, which includes a system for disposing of wastes by surface and underground methods; and

WHEREAS, the present System is insufficient and inadequate to meet the needs of the Borrower and its residents for the treatment and disposal of wastewater or for groundwater protection; and

WHEREAS, the Loan Agreement and Note will be payable solely from the Municipal Gross Receipts Tax Revenues; and

WHEREAS, the funds for this Project will include funds from a one-time federal grant to the NMED from the Environmental Protection Agency (EPA); and

WHEREAS, the Project is subject to specific requirements of the federal grant; and

WHEREAS, the Borrower has the following obligations outstanding to which the Municipal Gross Receipts Tax Revenues have already been pledged:

TIJERAS CODE

<i>Funding Source (i.e., Revenue Bond, NMED, NMFA, etc.) and Series # or Loan #</i>	<i>Principal Amount Outstanding at 06/30/ (use the most current date)</i>	<i>Is the listed funding source superior, subordinate or on parity with this funding?</i>
N/A	\$	
no current debt pledged to GRT	\$	
	\$	
	\$	

WHEREAS, the Governing Body of the Borrower has determined that it is in the best interest of the Borrower to accept and enter into the Loan Agreement and to execute and to deliver the Note to the NMED.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE BORROWER:

Section 1. DEFINITIONS.

As used in the Ordinance, the following terms shall have the meanings specified below, unless the context clearly requires otherwise (*such meanings to be equally applicable to both the singular and the plural forms of the terms defined unless the plural form is separately defined*):

ACT. The general laws of the State, including the Wastewater Facility Construction Loan Act at sections 74-6A-1 to 74-6A-15 NMSA 1978, as amended; enactments of the governing Body of the Borrower relating to the Note and the Loan Agreement made by resolution or ordinance, including this Ordinance; and the powers of the Borrower as a public body under authority given by the Constitution and Statutes of the State.

ANNUAL AUDIT or SINGLE AUDIT. Financial statements of the Borrower as of the end of each Fiscal Year, audited by an Independent Accountant, consistent with the federal Single Audit Act and the State Auditor's rules.

ANNUAL LOAN REPAYMENT ACCOUNT. An account established under this Ordinance and held by the Borrower, funded from the Municipal Gross Receipts Tax, in the amount necessary for the annual payment due under the Loan Agreement and Note.

AUTHORIZED OFFICER. The Borrower's mayor, chief administrative officer, or other officer or employee of the Borrower as designated by Borrower's Resolution Number 348 adopted by the Governing Body of the Borrower, as amended.

BORROWER. The entity requesting funds pursuant to the Act.

DEDICATED SOURCE(S) OF REPAYMENT. Municipal Gross Receipts Tax revenue defined as: 6th increment (one-fourth of one percent (.25%) of the Municipal Gross Receipts Tax.

FISCAL YEAR. The twelve-month period commencing on the first day of July of each year and ending on the last day of June of the succeeding year, or any other twelve-month period which the Borrower hereafter may establish as the fiscal year for the System.

FUNDS. Loan and loan Subsidy Grant funds.

GOVERNING BODY OF THE BORROWER. Council.

LOAN. A loan of funds from NMED made pursuant to the Loan Agreement.

LOAN AGREEMENT. One or more loan agreements between the Borrower and the NMED, pursuant to which funds will be loaned to the Borrower to construct the Project and pay eligible costs relating thereto; and the amended loan agreement which shall state the final amount the NMED loaned to the Borrower, which shall be executed upon completion of the Project and dated on the date of execution thereof.

LOAN SUBSIDY GRANT. A sub-grant of funds to the Borrower from a one-time federal grant of funds to the NMED by EPA, for the purpose of subsidizing the amount loaned to the Borrower under the Loan Agreement and Note.

NMSA. New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

NOTE. The interim and final promissory notes issued by the Borrower to the NMED evidencing the obligation of the Borrower to the NMED incurred pursuant to the Ordinance and Loan Agreement.

OPERATION AND MAINTENANCE. All reasonable and necessary current expenses of the System, paid or accrued, relating to operating, maintaining and repairing the System.

ORDINANCE. This Ordinance as amended or supplemented from time to time.

PARITY BONDS or PARITY OBLIGATIONS. Revenue Bonds and other bonds or other obligations payable from the Municipal Gross Receipts Tax issued with a lien on the Municipal Gross Receipts Tax and (if applicable) Revenues on parity with the bonds or obligations as listed in this ordinance.

PROJECT. The most current NMED approved Project Description listed on the Project Description Form on file with NMED.

PROJECT COMPLETION DATE. Means the date that operations of the completed works are initiated or capable of being initiated, whichever is earlier. This also applies to individual phases or segments.

REGULATIONS. Regulations promulgated by the Water Quality Control Commission at 20.7.5 NMAC and New Mexico Environment Department at 20.7.6 - 20.7.7 NMAC.

SYSTEM. The Borrower's utility designated as Water and Wastewater Conveyance and treatment system.

SUBORDINATE OBLIGATIONS. Other obligations payable from the Municipal Gross Receipts Tax and (if applicable) Revenues issued with a lien on the Municipal Gross Receipts Tax and (if applicable) Revenues subordinate to the lien of the Loan Agreement and Note as may be listed in this ordinance.

Section 2. RATIFICATION.

All action heretofore taken (not inconsistent with the provisions of the Ordinance) by the Council, the officers and employees of the Borrower, directed toward the Loan Agreement and the Note, is hereby ratified, approved and confirmed.

Section 3. FINDINGS.

The Council hereby declares that it has considered all necessary and relevant information and data and hereby makes the following findings:

- (A) The execution and delivery of the Loan Agreement and the Note pursuant to the Act to provide funds to finance the Project, is necessary and in the interest of the public health, safety, and welfare of the residents of the Borrower and will result in savings of finance costs to the Borrower.
- (B) The Borrower will acquire, improve and finance the Project.
- (C) The money available for the Project from all sources other than the Loan Agreement is not sufficient to pay when due the cost of the Project.
- (D) The Project is and will be part of the System, which is a publicly owned Water and Wastewater Conveyance and Treatment System, the purposes of which include the disposal and treatment of wastewater, either by surface or underground methods.
- (E) The Municipal Gross Receipts Tax may lawfully be pledged to secure the payment of amounts due under the Loan Agreement and Note.

Section 4. SYSTEM.

The System shall continue to constitute a Water and Wastewater Conveyance and Treatment System and shall be operated and maintained as such.

Section 5. AUTHORIZATION OF PROJECT.

The acquisition and construction of the Project and payment of eligible items as set forth in the Regulations from proceeds of the Loan Agreement and Note is hereby authorized at a cost not to exceed the principal Loan amount of \$700,000.00 and the Loan Subsidy Grant amount of \$150,000.00 excluding any cost of the Project to be paid from any source other than the proceeds of the Loan Agreement and Note.

Section 6. AUTHORIZATION OF LOAN AGREEMENT.

(A) For the purpose of protecting the public health, conserving the property, and protecting the general welfare of the citizens of the Borrower and acquiring the Project, it is hereby declared necessary that the Borrower, pursuant to the Act and the Regulations execute and deliver the Loan Agreement and Note, and the Borrower is hereby authorized to execute and deliver the Loan Agreement and the Note, to be payable and collectible solely from the Municipal Gross Receipts Tax Revenues. The NMED has agreed to disburse the proceeds according to the terms of the Loan Agreement to the Borrower over the construction period of the Project. The principal Loan amount of the Note shall not exceed \$700,000.00 plus accrued construction interest without the adoption of another Ordinance amending the Ordinance by the Governing Body of the Borrower, and the annual interest rate on that principal amount shall not exceed 3 percent per annum. Interest shall be computed as a percentage per year on the outstanding principal amount on the Loan on the basis of a 365 day year, actual number of days lapsed. The final maturity date on the Note shall not extend beyond the agreed upon useful life of the project. The Loan shall be repaid in substantially equal annual installments in the amount and on the dates provided in the Loan Agreement with the first annual installment due no later than one year after completion of the project. The Borrower must obtain the written consent of the NMED before issuing additional obligations secured by the Municipal Gross Receipts Tax Revenues.

(B) The Borrower is hereby authorized to accept a Loan Subsidy Grant under the terms of the Loan Agreement. The Loan Grant Subsidy amount shall not exceed \$150,000.00 without the adoption of another Ordinance amending the Ordinance by the Governing Body of the Borrower. By accepting a Loan Subsidy Grant, the Borrower is a sub-recipient of a one-time federal grant of funds to NMED by EPA. As a sub-recipient, the Borrower is responsible for complying with the specific requirements and the conditions of the one-time federal grant. If the Borrower fails to satisfy any federal grant requirements or conditions, the Borrower may be required to refund any federal grant funds disbursed to the Borrower from NMED. Specific federal grant requirements include but are not limited to:

- (1) Federal Grant Reporting Requirements; and
- (2) Wage Rate Requirements.

(C) The form of the Loan Agreement and the Note are approved. An Authorized Officer is hereby authorized and directed to execute and deliver the Loan Agreement and the Note and any extensions of or amendments to any such document to be executed after completion of the Project, or any substitution therefore, with such changes therein consistent with the Ordinance and as shall be approved by an Authorized Officer whose execution thereof, or any extension thereof, or substitution therefore, in their final forms shall constitute conclusive evidence of their approval and compliance with this section.

(D) From and after the date of the initial execution and delivery of the Loan Agreement and the Note, Authorized Officers, agents and employees of the Borrower are authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of this Ordinance, the Loan Agreement and the Note.

Section 7. SPECIAL LIMITED OBLIGATIONS.

The Loan Agreement and the Note and all payments thereon shall be special limited obligations of the Borrower and shall be payable and collectible solely from the Municipal Gross Receipts Tax Revenues

which are irrevocably pledged as set forth in this Ordinance. The NMED may not look to any general or other fund for the payment on the Loan Agreement and the Note except the designated special funds pledged therefore. The Loan Agreement and the Note shall not constitute indebtedness or debts within the meaning of any constitutional, charter or statutory provision or limitation, nor shall they be considered or be held to be general obligations of the Borrower and shall recite that they are payable and collectible solely from the Municipal Gross Receipt Tax Revenues the income from which is so pledged.

Section 8. OPERATION OF PROJECT.

The Borrower will operate and maintain the Project so that it will function properly over its structural and material design life.

Section 9. USE OF PROCEEDS.

The NMED shall disburse Funds pursuant to the Loan Agreement for NMED approved costs incurred by the Borrower for the Project or to pay contractors or suppliers of materials for work performed on the Project as set forth in the Loan Agreement.

Section 10. ANNUAL LOAN REPAYMENT ACCOUNT.

The Borrower must maintain a debt service coverage ratio of no less than 1.2.

(B) ANNUAL LOAN REPAYMENT ACCOUNT. An Annual Loan Repayment Account is established under this Ordinance, held by the Borrower and funded from the Municipal Gross Receipts Tax Revenues in the amount necessary for the payment due annually under the Loan Agreement and Note. So long as the Loan Agreement and the Note are outstanding, as to annual payment due, the Borrower shall fund the Annual Loan Repayment Account and identify this in the Annual Audit.

Section 11. APPLICATION OF REVENUES.

(A) OPERATION AND MAINTENANCE. The Borrower shall pay for the operation and maintenance expenses of the System, approved indirect charges, and any amounts for capital replacement and repair of the System as incurred.

(B) PARITY OBLIGATIONS AND OTHER APPROVED DEBT(S). The Borrower shall pay the principal, interest and administrative fees (if applicable) of parity obligations and other approved debts which are secured from the Municipal Gross Receipts Tax Revenues as scheduled.

(C) EQUITABLE AND RATABLE DISTRIBUTION. Obligations of the Borrower secured by the Municipal Gross Receipts Tax Revenues on parity with the Loan Agreement and the Note, from time to time outstanding, shall not be entitled to any priority one over the other in the application of the Municipal Gross Receipt Tax Revenues, regardless of the time or times of their issuance or creation.

(D) **SUBORDINATE OBLIGATIONS.** The Municipal Gross Receipts Tax Revenues used for the payment of Subordinate Obligations shall be applied first to the payment of the amounts due the Loan Agreement and the Note, including payments to be made to other obligations payable from the Municipal Gross Receipts Tax Revenues which have a lien on the Municipal Gross Receipts Tax Revenues on parity with the Loan Agreement and the Note.

Section 12. LIEN OF LOAN AGREEMENT AND NOTE.

The Loan Agreement and the Note shall constitute irrevocable liens upon the Municipal Gross Receipts Tax Revenues with priorities on the Municipal Gross Receipts Tax Revenues as set forth in this Ordinance. The Borrower hereby pledges and grants a security interest in the Municipal Gross Receipts Tax Revenues for the payment of the Note and any other amounts owed by the Borrower to the NMED pursuant to the Loan Agreement.

Section 13. OTHER OBLIGATIONS.

Nothing in the Ordinance shall be construed to prevent the Borrower from issuing bonds or other obligations payable from the Municipal Gross Receipt Tax Revenues and having a lien thereon subordinate to the liens of the Loan Agreement and the Note. The Borrower must obtain the written consent of the NMED before issuing additional obligations secured by the Municipal Gross Receipts Tax Revenues.

Section 14. DEFAULT.

The following shall constitute an event of default under the Loan Agreement:

- (A) The failure by the Borrower to pay the annual payment due on the repayment of the Loan set forth in the Loan Agreement and Note when due and payable either at maturity or otherwise; or
- (B) Default by the Borrower in any of its covenants or conditions set forth under the Loan Agreement (*other than a default described in the previous clause of this section*) for 60 days after the NMED has given written notice to the Borrower specifying such default and requiring the same to be remedied.

UPON OCCURRENCE OF DEFAULT:

- (A) The entire unpaid principal amount of the Interim and Final Promissory Note plus accrued interest and any fees thereon may be declared by the NMED to be immediately due and payable and the Borrower shall pay the amounts due under Note from the Municipal Gross Receipts Tax Revenues, either immediately or in the manner required by the NMED in its declaration, but only to the extent funds are available for payment of the Note. However, if insufficient funds are available for payment of the Note(s), the NMED may require the Borrower to adjust the rates charged by the System to ensure repayment of the Note.
- (B) If default by the Borrower is of covenants or conditions required under the federal grant, the Borrower may be required to refund the amount of the Loan and Loan Subsidy Grant disbursed to the Borrower from NMED.

- (C) The NMED shall have no further obligation to make payments to the Borrower under the Loan Agreement.

Section 15. ENFORCEMENT; VENUE.

The NMED retains the right to seek enforcement of the terms of the Loan Agreement. If the NMED and the Borrower cannot reach agreement regarding disputes as to the terms and conditions of this Loan Agreement, such disputes are to be resolved promptly and expeditiously in the district court of Santa Fe County. The Borrower agrees that the district court for Santa Fe County shall have exclusive jurisdiction over the Borrower and the subject matter of this Loan Agreement and waives the right to challenge such jurisdiction.

Section 16. REMEDIES UPON DEFAULT.

Upon the occurrence of any of the events of default as provided in the Loan Agreement or in this Ordinance, the NMED may proceed against the Borrower to protect and enforce its rights under the Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained in the Ordinance for the enforcement of any proper legal or equitable remedy as the NMED may deem most effective to protect and enforce the rights provided above, or to enjoin any act or thing which may be unlawful or in violation of any right of the NMED, or to require the Borrower to act as if it were the trustee of an express trust, or any combination of such remedies. Each right or privilege of the NMED is in addition and cumulative to any other right or privilege under the Ordinance or the Loan Agreement and Note and the exercise of any right or privilege by the NMED shall not be deemed a waiver of any other right or privilege.

Section 17. DUTIES UPON DEFAULT.

Upon the occurrence of any of the events of default as provided in this Ordinance, the Borrower, in addition, will do and perform all proper acts on behalf of and for the NMED to protect and preserve the security created for the payment of the Note to ensure the payment on the Note promptly as the same become due. All proceeds derived from the System, so long as the Note is outstanding, shall be treated as revenues. If the Borrower fails or refuses to proceed as required by this Section, the NMED, after demand in writing, may proceed to protect and enforce the rights of the NMED as provided in the Ordinance and the Loan Agreement.

Section 18. TERMINATION.

When all obligations under the Loan Agreement and Note have been paid, the Loan Agreement and Note shall terminate and the pledge, lien, and all other obligations of the Borrower under the Ordinance shall be discharged. The principal amount of the Note, or any part thereof, may be prepaid at any time without penalty at the discretion of the Borrower and the prepayments of principal shall be applied as set forth in the Loan Agreement.

Section 19. AMENDMENT OF ORDINANCE.

This Ordinance may be amended with the prior written consent of the NMED.

Section 20. ORDINANCE IRREPEALABLE.

After the Loan Agreement and Note have been executed and delivered, the Ordinance shall be and remain irrevocable until the Note has been fully paid, terminated and discharged, as provided in the Ordinance.

Section 21. SEVERABILITY CLAUSE.

If any section, paragraph, clause or provision of the Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of the Ordinance.

Section 22. REPEALER CLAUSE.

All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

CODE COMPARATIVE TABLE

LEGISLATION

This following table gives the location of those ordinances and other legislation within this Code.

Legislation	Date	Section	Section this Code
Ord. No. 19	5-15-1979	I	6-99
		II	6-100
		III	6-101
		IV	6-40
Ord. No. 28	7-12-1982	I	2-227
		II	2-19
		—	2-44—2-46
		III	2-66
		IV	2-67
		V	2-20
Ord. No. 50	11-13-1990	VI	2-93
		3(A)	16-40
		3(B)	16-41
		3(C)	16-42
		3(D)	16-43
		3(E)	16-44
Ord. No. 55	12-9-1991	2(A)	22-42
		2(B)	22-43
		2(C)	22-44
		2(D)	22-45
		3(A)	22-64
		3(B)	22-65
		3(C)	22-66
		4(A)	22-91
		4(B)	22-92
		4(C)	22-93
Ord No. 59	6-8-1992	1	2-142
		2(A)	2-143
		2(B)	2-144
		3	2-149
		4(A)	2-145
		4(B)	2-146
		4(C)	2-147
		4(D)	2-148
Ord. No. 63	6-14-1993	—	App. B, Art. I
Ord. No. 65	7-12-1993	1	20-19
		2	20-42
		3	20-44
		4	20-43
Ord. No. 67	11-8-1993	—	App. B, Art. II
Ord. No. 68	11-8-1993	—	App. B, Art. III
Ord. No. 94	4-12-1999	1	2-346

TIJERAS CODE

Legislation	Date	Section	Section this Code
		2	2-347
		3	2-348
		4(intro. ¶)	2-349
		4(B)	2-350
		5	2-351
		6	2-352
		7	2-353
		8	2-354
		9	2-355
Ord. No. 111	6-9-2003	1	12-106
		2	12-107
		3	12-108
		4	12-109
		5	12-110
		7	12-111
		8	12-112
		9	12-113
		10	12-114
		11	12-115
		Ord. No. 134	6-9-2008
II	24-41		
III	24-42		
IV	24-43		
V	24-44		
VI	24-45		
VII	24-46		
Ord. No. 141	1-19-2010	1	6-131
		2	6-132
		3	6-133
		4	6-134
		5	6-135
		6	6-136
		7	6-137
		8	6-138
		9	6-139
		10	6-140
		11	6-141
		12	6-142
		13	6-143
		15	6-144
		Ord. No. 144	9-13-2010
Ord. No. 151	2-27-2012	1	2-20
		2	2-20
		3	2-20
Ord. No. 150	3-6-2012	1	20-62
		2	20-63
		3	20-64
		4	20-65
Ord. No. 152	6-11-2012	Art. 2	14-23
		Art. 3, § A	14-24

CODE COMPARATIVE TABLE

Legislation	Date	Section	Section this Code
		Art. 3, § B	14-25
		Art. 3, § C	14-26
		Art. 3, § D	14-27
		Art. 3, § E	14-28
		Art. 3, § F	14-29
		Art. 3, § G	14-30
		Art. 4, § A	14-49
		Art. 4, § B	14-50
		Art. 4, § C	14-51
		Art. 4, § D	14-52
		Art. 5, § A	14-78
		Art. 5, § B	14-79
		Art. 5, § C	14-80
		Art. 5, § D	14-81
		Art. 5, § E	14-82
		Art. I, § A	14-19
		Art. I, § B	14-20
		Art. I, § C	14-21
		Art. I, § D	14-22
Ord. of 2-26-2013	2-26-2013	—	4-1—4-5
		—	4-29—4-33
		—	4-55—4-63
		—	4-85—4-87
		—	4-118—4-120
		—	4-122—4-142
		—	4-168, 4-169
		—	4-185—4-187
		—	4-195, 4-196
Ord. No. 160	1-26-2015	1	8-19
		2	8-20
		3	8-21
		4	8-22
		5	8-23
		7	8-24
Ord. No. 163	3-20-2017	—	App. D (note)
Ord. No. 165	6-29-2017	1-1-1	12-71
		1-1-2	12-72
		1-1-3	12-73
		1-1-4	12-74
		1-1-5	12-75
		1-1-6	12-76
		1-1-7	12-77
		1-1-8	12-78
		1-1-9	12-79
		1-1-10	12-80
		1-1-11	12-81
Ord. No. 166	11-13-2018	1	2-209
Ord. No. 180	6-22-2020	1-1	24-259
		1-2	24-260
		1-3	24-261

TIJERAS CODE

Legislation	Date	Section	Section this Code
		1-4	24-262
		1-5	24-294
		1-6	24-295
		1-7	24-263
		1-8	24-264
		1-9	24-296
		1-10	24-297
		1-11	24-363
		1-12	24-298
		1-13	24-364
		1-14	24-365
		1-15	24-366
		1-16	24-391
		1-17	24-392
		1-18	24-393
		1-19	24-330
		1-20	24-331
		1-21	24-332
		1-22	24-333
		1-23	24-334
		1-24	24-335
		1-25	24-336
		1-27	24-265
		1-28	24-337
Ord. No. 185	6-22-2020	6-30	4-1
		6-31	4-2
		—	4-4
		6-32	4-29
		6-33	4-30
		6-34A	4-31
		6-34B	4-32
		6-35	4-33
		6-36	4-169
		6-37	4-185
		6-37A	4-186
		6-37B	4-187
		6-38	4-168
		6-39	4-55
		6-39A	4-56
		6-39B	4-57
		6-39C	4-58
		6-39D	4-59
		6-39E	4-60
		6-39F	4-61
		6-40	4-118
		6-41	4-85
		6-42	4-119
		6-43	4-120
		6-44	4-86
		6-45	4-121

CODE COMPARATIVE TABLE

Legislation	Date	Section	Section this Code
		6-46	4-122
		6-47	4-123
		6-48	4-124
		6-50	4-125
		6-51	4-126
		6-52	4-127
		6-53	4-128
		6-54	4-129
		6-55	4-130
		6-56A	4-131
		6-56B	4-132
		6-57	4-133
		6-58	4-134
		6-59	4-135
		6-60	4-136
		6-61	4-137
		6-62	4-3
		6-63	4-138
		6-64	4-139
		6-65	4-140
		6-66	4-141
		6-67	4-142
		6-68	4-195
		6-69	4-196
		6-70	4-5
		6-71	4-62
		6-72	4-63
		6-76	4-87
Ord. No. 190	8-10-2020	I(A)	26-1
		I(B)	26-2
		I(C)	26-3
		I(D)	26-4
		I(D(2)(intro. ¶))	26-330
		I(D(2(a)))	26-331
		I(D(2(b)))	26-332
		I(D(2(c)))	26-333
		I(E(1))	26-33
		I(E(2))	26-34
		I(E(3))	26-35
		I(E(4))	26-36
		I(E(5))	26-37
		II	26-5
		III(A)	26-355
		III(B)	26-356
		III(C)	26-615
		III(D)	26-616
		III(E)	26-617
		III(F)	26-618
		III(H)	26-619
		III(I)	26-620

TIJERAS CODE

Legislation	Date	Section	Section this Code
		III(J)	26-621
		III(K)	26-622
		III(L)	26-623
		III(M)	26-624
		III(N)	26-625
		III(O)	26-738
		III(P)	26-739
		IV(A(intro. ¶))	26-386
		IV(A(1))	26-387
		IV(A(2))	26-388
		IV(A(3))	26-389
		IV(A(4))	26-390
		IV(A(5))	26-391
		IV(B(intro. ¶))	26-411
		IV(B(1))	26-412
		IV(B(2))	26-413
		IV(B(3))	26-414
		IV(B(4))	26-415
		IV(C(intro. ¶))	26-444
		IV(C(1))	26-445
		IV(C(2))	26-446
		IV(C(3))	26-447
		IV(C(4))	26-448
		IV(C(5))	26-449
		IV(D(intro. ¶))	26-467, 26-468
		IV(D(1))	26-469
		IV(D(2))	26-470
		IV(D(3))	26-471
		IV(E(intro. ¶))	26-496, 26-497
		IV(E(1))	26-498
		IV(E(2))	26-499
		IV(E(3))	26-500
		IV(F(intro. ¶))	26-524—26-526
		IV(F(1))	26-527
		IV(F(2))	26-528
		IV(F(3))	26-529
		IV(G(intro. ¶))	26-552—26-554
		IV(G(1))	26-555
		IV(G(2))	26-556
		IV(H(intro. ¶))	26-578—26-580
		IV(H(1))	26-581
		IV(H(2))	26-582
		IV(H(3))	26-583
		V	26-841
		VI(A)	26-654
		VII(A)	26-682
		VII(B)	26-683
		VII(C)	26-684
		VIII(A)	26-712
		IX(A(intro. ¶))	26-791—26-794

CODE COMPARATIVE TABLE

Legislation	Date	Section	Section this Code
		IX(A(1))	26-795
		IX(A(2))	26-795
		IX(A(3))	26-795
		IX(A(4))	26-795
		IX(A(5))	26-795
		IX(A(6))	26-795
		IX(A(7))	26-795
		IX(A(8))	26-795
		IX(A(9))	26-795
		IX(A(10))	26-795
		IX(A(11))	26-795
		IX(A(12))	26-795
		IX(B)	26-796
		IX(C)	26-816
		X(A)	26-67, 26-68
		X(C(intro. ¶))	26-95
		X(C(1))	26-96
		X(C(2))	26-97
		X(C(3))	26-98
		X(C(4))	26-99
		X(C(5))	26-100
		X(C(6))	26-101
		X(C(7))	26-102
		X(C(8))	26-103
		X(C(9))	26-104
		X(D(1))	26-122
		X(D(2))	26-123
		X(D(3))	26-124
		X(D(4))	26-125
		X(D(5))	26-126
		X(D(6))	26-127
		X(D(7))	26-128
		X(E(intro. ¶))	26-157, 26-158
		X(E(1))	26-159
		X(E(2))	26-159
		X(E(3))	26-159
		X(E(4))	26-159
		X(E(5))	26-159
		X(E(5)(a))	26-160
		X(E(5)(b))	26-160
		X(E(5)(c))	26-160
		X(E(5)(d))	26-160
		X(E(5)(e))	26-160
		X(E(5)(f))	26-160
		X(E(5)(g))	26-160
		X(E(5)(h))	26-160
		X(E(5)(i))	26-160
		X(F(intro. ¶))	26-187
		X(F(1))	26-188
		X(F(2))	26-189

TIJERAS CODE

Legislation	Date	Section	Section this Code
		X(F(4))	26-190
		X(F(5))	26-191
		X(G(intro. ¶))	26-221
		X(G(1))	26-222
		X(G(2)(a))	26-223
		X(G(2)(b))	26-224
		X(G(2)(c))	26-225
		X(G(2)(d))	26-226
		X(H)	26-129
		X(I(1)(a))	26-246
		X(I(1)(b))	26-246
		X(I(1)(c))	26-246
		X(I(2))	26-247
		XI(A)	26-273
		XI(B)	26-274
		XI(C)	26-275
		XI(D)	26-38
		XI(E)	26-39
		XI(F)	26-6
Ord. No. 195	11-2-2020	—	App. A (note)
Ord. No. 200	12-7-2020	1	24-66
		2	24-67
		3	24-68
		4	24-69
		5	24-101
		6	24-102
		7	24-158
		8	24-159
		9	24-160
		10	24-161
		11	24-70
		12	24-133
		13	24-134
		14	24-214
		15	24-135
		16	24-136
		17	24-195
		18	24-162
		19	24-163
		20	24-237
		21	24-238
		22	24-239
		23	24-240
		24	24-71
		25	24-137
Ord. No. 205	3-1-2021	1	18-1
		2	18-2
		3	18-3
		5	2-294
		—	18-4

CODE COMPARATIVE TABLE

Legislation	Date	Section	Section this Code
		6(A)	18-5
		6(B)	18-5
		6(C)	18-5
		6(D)	18-139
		7	18-162
		8	18-163
		9	18-195
		10	18-196
		11	18-216
		12	18-217
		13	18-243
		14(A)	18-294
		14(B)	18-295
		14(C)	18-296
		15(A)	18-322
		15(B)	18-323
		15(C)	18-324
		15(D)	18-325
		15(E)	18-326
		15(F)	18-327
		16	18-6
		17	18-88
		18(A)	18-265
		18(B)	18-266
		18(C)	18-267
		18(D)	18-268
		19	18-7
		20	18-8
		21	18-57
		22	18-9
		23	18-120
		24	18-33
		25	18-34
Ord. No. 210	8-23-2021	1	26-388
		—	26-499
		2	26-413
		3	26-470
		5	26-528
Ord. No. 215	8-23-2021	1	8-21

STATE LAW REFERENCE TABLE

This following table shows the location within the Code, either in the text or notes following the text, of references to the New Mexico Statutes Annotated (NMSA 1978).

NMSA 1978 Section	Section this Code	NMSA 1978 Section	Section this Code
1-12-42	App. A, § 10	3-20-7	Ch. 18, Art. III,
1-22-1 et seq.	Ch. 2, Art. II, Div. 4	—	Div. 3
—	2-93	3-20-8	18-195
—	Ch. 2, Art. IV	—	Ch. 18, Art. III,
—	Ch. 2, Art. IV, Div. 2	3-21-1 et seq.	Div. 5
1-22-3.1(B)	Ch. 2, Art. IV, Div. 2	3-21-8	18-243
—	2-209	3-21-9	Ch. 26 (note)
3-5-20	18-2	3-23-1 et seq.	Ch. 2, Art. VI, Div. 2
3-7-1 et seq.	Ch. 26, Art. II, Div. 8	3-23-6	Ch. 24 (note)
3-7-1(A)	26-246	3-23-6(C)	24-137
3-11-1 et seq.	Ch. 2, Art. II	3-26-1 et seq.	24-337
—	Ch. 2, Art. II, Div. 2	—	Ch. 24 (note)
3-12-2(D)	1-2	3-27-1 et seq.	Ch. 24, Art. IV
3-12-3	2-347	—	Ch. 24 (note)
3-13-4	App. A, § 3	3-35-1—3-35-5	Ch. 24, Art. III
3-17-1	1-14	3-36-1—3-36-7	24-337
3-17-5	1-1	3-37-1 et seq.	24-137
3-17-6	Ch. 6, Art. III	3-38-1	Ch. 20 (note)
—	12-19	3-38-1 et seq.	8-20
—	Ch. 22, Art. II	—	Ch. 8 (note)
3-17-6(A)(3)	Ch. 6, Art. III, Div. 2	3-38-3	8-24
3-18-2	Ch. 20, Art. II	—	Ch. 20 (note)
3-18-3	Ch. 4 (note)	3-38-5	Ch. 8, Art. II
3-18-3(A)(2)	4-120	3-41-1 et seq.	8-19
3-18-4	Ch. 6 (note)	3-50-1 et seq.	8-24
3-18-5	Ch. 6 (note)	4-37-1	Ch. 14 (note)
3-18-6	Ch. 6 (note)	—	Ch. 22 (note)
3-18-7	14-19	—	Ch. 4 (note)
3-18-11	Ch. 12 (note)	6-9-1—6-9-6	4-120
—	Ch. 12, Art. II	6-14-6	Ch. 12 (note)
3-19-1—3-19-4	2-142	7-1-6.4(C)	App. A, § 1
3-19-1 et seq.	Ch. 18 (note)	7-19D-1 et seq.	App. C (note)
3-19-5	18-2	7-21-1	20-64
3-19-6	18-2	7-24-1	Ch. 20, Art. III
3-20-1 et seq.	Ch. 18 (note)	—	20-42
3-20-3	Ch. 18, Art. III, Div. 3	—	Ch. 20, Art. II, Div. 2
		—	20-42

TIJERAS CODE

NMSA 1978 Section	Section this Code	NMSA 1978 Section	Section this Code
7-24-3	20-43	74-6A-1—74-6A-15	App. D, § 1
10-15-1 et seq.	Ch. 2, Art. II, Div. 3	74-12-3	26-5
10-16-1 et seq.	App. A, § 16	77-1-1 et seq.	Ch. 4 (note)
10-16-3	App. A, § 12	77-1-2	4-124
12-2A-2	1-2	77-1-3	4-2
12-2A-3	1-2	—	4-86
12-2A-4	1-2	77-1-5	4-86
12-2A-5	1-2	77-1-6	4-86
12-2A-7	1-2	77-1-10	4-86
12-2A-9	1-13	—	4-142
12-2A-14	1-5	77-1-12	4-120
12-2A-15	1-8	77-1-20	4-185
12-2A-17	1-2	77-1A-1—77-1A-6	4-120
12-2A-51 et seq.	1-2	77-1A-5	4-142
12-21-13	1-3	77-2-1 et seq.	4-187
26-2C-1 et seq.	26-388	77-15-1 et seq.	4-195
—	26-413		
—	26-470		
—	26-499		
—	26-528		
28-1-7 et seq.	Ch. 6, Art. IV		
28-11-2—28-11-4	4-122		
30-18-1	4-2		
—	4-87		
30-18-1.1	4-186		
30-18-9	4-135		
31-18-15	App. A, § 12		
39-3-1.1	Ch. 2, Art. VI, Div. 2		
39-3-1.1	2-355		
59A-52-1 et seq.	Ch. 12 (note)		
59A-52-18	Ch. 12 (note)		
—	Ch. 12, Art. II		
60-2C-1	12-73		
60-2C-1—60-2C-11	12-108		
60-2C-1 et seq.	Ch. 12 (note)		
—	Ch. 12, Art. III		
60-2C-3	12-74		
60-2C-7	12-110		
60-2C-7(C)	12-78		
60-2C-8.1	Ch. 12, Art. III, Div. 3		
—	12-108		
60-6A-12	20-42		
60-6A-18	20-42		
60-6C-8.1	12-110		
60-13-1 et seq.	Ch. 6, Art. III		
66-1-1—66-8-141	Ch. 22 (note)		
66-7-9	Ch. 22 (note)		

CODE INDEX

	Section
A	
ABANDONMENT	
Animals	
Care and control	4-121
Zoning	
Nonconformities	
Nonconforming uses	26-332
ADMINISTRATION	
Animals	4-29 et seq.
See: ANIMALS	
Boards, committees and commissions.....	2-142 et seq.
See: BOARDS, COMMITTEES AND COMMISSIONS	
Buildings and building regulations.....	6-40 et seq.
See: BUILDINGS AND BUILDING REGULATIONS	
Elections.....	2-209 et seq.
See: ELECTIONS	
Floods.....	14-49 et seq.
See: FLOODS	
Officers and employees.....	2-294 et seq.
See: OFFICERS AND EMPLOYEES	
Policies and procedures.....	2-346 et seq.
See: POLICIES AND PROCEDURES	
Subdivisions.....	18-33 et seq.
See: SUBDIVISIONS	
Utilities	24-40 et seq.
See: UTILITIES	
Village clerk	
Villager clerk as chief administrative officer.....	2-294
Village council.....	2-19 et seq.
See: VILLAGE COUNCIL	
Zoning.....	26-33 et seq.
See: ZONING	
ALCOHOLIC BEVERAGES	
Taxation and finance.....	20-19 et seq.
See: TAXATION AND FINANCE	
ANIMALS	
Administration	
Fees	4-33
License	
Animal license.....	4-85
Exemption for licensed research facilities	4-87

TIJERAS CODE

	Section
ANIMALS (Cont'd.)	
Vaccinations.....	4-86
Permits	
Appeal procedures for permit denial, suspension or revocation	4-63
Breeder permit	4-57
General provisions	4-55
Guard dog permit	4-60
Intact animal permit	4-61
Litter permit.....	4-58
Requirements for sale of offspring	4-59
Site permit requirements	4-56
Suspensions, revocations of permits	4-62
Procedure for county manager and animal care services officers	4-31
Procedures for complaints	4-30
Rules and regulations	4-29
Waiver	4-32
Animal care services impoundment procedures	
Canine hybrids.....	4-196
Impounding animals.....	4-185
Seizure of animals, excluding livestock	4-186
Seizure of livestock	4-187
Wild animals.....	4-195
Care and control	
Abandonment	4-121
Admission of qualified assistance animals to public places	4-122
Animal poisoning.....	4-125
Animal waste	4-129
Animals biting persons	4-118
Animals disturbing the peace	4-123
Animals killing or injuring livestock or protected wildlife.....	4-124
Animals running at large	4-126
Animals transported in vehicles	4-128
Breaking into animal care services facilities or vehicles	4-130
Care and maintenance of companion animals	4-131
Care and maintenance of livestock	4-132
Confinement of female dogs or cats in mating season.....	4-133
Cruelty to animals	4-134
Fights	4-135
Fowl; impounding or crating	4-136
Hobbling.....	4-137
Injury to animals by motorists.....	4-127
Keeping a seriously sick or injured animal	4-138
Number of animals allowed	4-119

CODE INDEX

	Section
ANIMALS (Cont'd.)	
Restraint of animals	4-120
Sale and display of animals.....	4-139
Sterilization agreements/contracts	4-140
Unlawful use of rabies tag	4-141
Vicious or dangerous animals	4-142
Definitions	4-2
Interference with the county manager in the performance of his duties prohibited	4-3
Penalty	4-5
Shelter for animals	4-4
Short title and legislative intent	4-1
Wild and hybrid animals	
County animal care services facilities.....	4-169
Retention of strays or owner-surrendered animals	4-168
ANNEXATIONS	
Zoning	
Administration	
Annexation	
Annexation permitted	26-246
Request for annexation	26-247
B	
BOARDS, COMMITTEES AND COMMISSIONS	
Planning and zoning commission	
Chair and vice-chair	2-145
Conduct of business	2-146
Meetings	2-147
Membership	2-143
Powers and duties; delegation of powers	2-149
Purpose	2-142
Records	2-148
Terms	2-144
Streets, roads, sidewalks and other public places	
Streets and roads	
Naming	
Collaboration with county commissioners	16-42
Zoning	
Administration	
Zone change	
Commission recommendation for approval or denial	26-99
Planning and zoning commission review	26-98

TIJERAS CODE

	Section
BUILDINGS AND BUILDING REGULATIONS	
Administration	
Permit	
Compliance with comprehensive zoning required.....	6-40
Building code and standards	
State building code	
Copies to be available and subject to inspection	6-101
Punishment for violation of the code	6-100
State building code adoption.....	6-99
Fair housing	
Administration.....	6-138
Definitions	6-132
Discrimination in residential real estate-related transactions....	6-135
Discrimination in the provision of brokerage services.....	6-136
Discrimination in the sale or rental of housing.....	6-134
Education and conciliation	6-139
Enforcement by private persons	6-142
Exemption	6-137
General enforcement.....	6-140
Interference, coercion or intimidation	6-143
Investigations; subpoenas; giving of evidence	6-141
Policy	6-131
Prevention of intimidation in fair housing cases	6-144
Unlawful practice	6-133
Utilities	
Wastewater service	
Standards	
Requirements for new buildings	24-366
Zoning.....	26-67 et seq.
See: ZONING	
BUSINESSES AND BUSINESS REGULATIONS	
Boards, committees and commissions	
Planning and zoning commission	
Conduct of business.....	2-146
Business registration fee	
Application to do business.....	8-21
Enforcement	8-24
Exemption	8-20
Failure to renew by due date.....	8-23
Imposition of fees	8-19
Renewal; due date.....	8-22

CODE INDEX

	Section
BUSINESSES AND BUSINESS REGULATIONS (Cont'd.)	
Zoning.....	26-467 et seq.
See: ZONING	

C

CODE OF ORDINANCES*

Acts, penalties and rights not affected by Code.....	1-7
Amendments to Code.....	1-11
Catchlines of sections.....	1-3
Definitions and rules of construction.....	1-2
Designation and citation of Code.....	1-1
Effect of repeal or amendment of ordinances.....	1-8
General penalty for violation of Code; separate offenses.....	1-14
History notes.....	1-9
Ordinances not affected by Code.....	1-6
Provisions considered continuation of existing ordinances.....	1-5
References and editor's notes.....	1-10
References to chapters, articles, divisions or sections.....	1-4
Severability of parts of Code.....	1-13
Supplementation of Code.....	1-12

COMMUNITY BLOCK GRANTS. See Appendix B

COURTS

Zoning	
Administration	
Appeals	
Appeal to district court.....	26-226

D

DRAINAGE

Subdivisions	
Design standards.....	18-323

E

EASEMENTS

Subdivisions	
Design standards.....	18-324

*Note—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

TIJERAS CODE

	Section
ELECTIONS	
Local election	
Municipal officers to be elected at the regular local election	2-209
Mayor and village council	
Terms	2-227
EMERGENCIES	
Utilities	
Wastewater service	
Sewer use regulations	
Emergency shutoff to repair system	24-393
Water service	
Use regulations	
Emergency shut off	24-237
EXCAVATIONS	
Utilities	
Wastewater service	
Sewer use regulations	
Damage to wastewater system; excavations.....	24-392
F	
FINANCE. See: TAXATION AND FINANCE	
FINES, FORFEITURES AND OTHER PENALTIES	
Animals	
Penalty	4-5
Fire prevention and protection	
Fireworks	
Sale, use, possession	
Penalty	12-81
Subdivisions	
Penalties	18-9
Taxation and finance	
Alcoholic beverages	
License tax	
Penalty	20-44
Traffic and vehicles	22-42 et seq.
See: TRAFFIC AND VEHICLES	
Utilities	
Wastewater service	
Penalty	24-265
Water service	
Penalty	24-71

CODE INDEX

	Section
FINES, FORFEITURES AND OTHER PENALTIES (Cont'd.)	
Zoning	
Penalties	26-6
FIRE PREVENTION AND PROTECTION	
Fire code and standards	
Adoption of International Fire Code.....	12-19
Fireworks	
Sale, use, possession	
Application and permit	12-74
Definitions	12-73
Display fireworks.....	12-75
Inspection	12-77
Penalty	12-81
Permissible fireworks.....	12-78
Prohibited fireworks.....	12-79
Purpose.....	12-72
Restrictions.....	12-76
Seizure of fireworks	12-80
Title	12-71
Use during severe drought	
Areas of restriction.....	12-113
Authority during extreme or severe drought conditions	12-108
Commercial displays	12-115
Issuance of proclamation	12-110
Prohibited areas	12-114
Prohibited uses	
Ground audible devices.....	12-112
Types of fireworks	12-111
Purpose.....	12-107
Securing public health, safety, convenience and welfare	12-109
Title	12-106
Zoning	
Supplementary district regulations	
Fire sprinklers.....	26-621
FIREWORKS	
Fire prevention and protection.....	12-71 et seq.
See: FIRE PREVENTION AND PROTECTION	
FLOODS	
Flood hazard mitigation	
Abrogation and greater restrictions.....	14-28
Administration	
Designation of the floodplain administrator.....	14-49

TIJERAS CODE

	Section
FLOODS (Cont'd.)	
Duties and responsibilities of the floodplain administrator...	14-50
Permit procedures	14-51
Variance procedures	14-52
Basis for establishing the areas of special flood hazard.....	14-25
Compliance	14-27
Definitions	14-23
Establishment of development permit	14-26
Findings of fact.....	14-20
Interpretation	14-29
Lands to which this article applies.....	14-24
Methods of reducing flood losses	14-22
Standards for flood hazard reduction	
Floodways.....	14-82
General standards	14-78
Specific standards	14-79
Standards for areas of shallow flooding (AO/AH Zones).....	14-81
Standards for subdivision proposals	14-80
Statement of purpose	14-21
Statutory authorization.....	14-19
Warning and disclaimer of liability	14-30
 FOOD AND FOOD SERVICES	
Zoning	
Supplementary district regulations	
Mobile food units	26-622
 H	
 HEALTH AND SANITATION	
Fire prevention and protection	
Fireworks	
Use during severe drought	
Securing public health, safety, convenience and welfare	12-109
 HOUSING	
Buildings and building regulations	6-131 et seq.
See: BUILDINGS AND BUILDING REGULATIONS	
Zoning.....	26-386 et seq.
See: ZONING	

I

IDENTIFICATION

 Utilities

CODE INDEX

	Section
IDENTIFICATION (Cont'd.)	
Administration	
Identity theft program	
Identification of red flags.....	24-42
IMPOUNDMENT	
Animals	4-136 et seq.
See: ANIMALS	
INSPECTIONS	
Buildings and building regulations	
Building code and standards	
State building code	
Copies to be available and subject to inspection.....	6-101
Fire prevention and protection	
Fireworks	
Sale, use, possession	
Inspection.....	12-77
Utilities	
Water service	
Connections	
Inspection of hook-up.....	24-163
Zoning	
Administration	
Inspection	26-34
INVESTIGATIONS	
Buildings and building regulations	
Fair housing	
Investigations; subpoenas; giving of evidence.....	6-141
 L 	
LIABILITY	
Floods	
Flood hazard mitigation	
Warning and disclaimer of liability	14-30
LICENSES AND PERMITS	
Animals	4-85 et seq.
See: ANIMALS	
Buildings and building regulations	
Administration	
Permit	
Compliance with comprehensive zoning required	6-40

TIJERAS CODE

	Section
LICENSES AND PERMITS (Cont'd.)	
Fire prevention and protection	
Fireworks	
Sale, use, possession	
Application and permit	12-74
Floods	
Flood hazard mitigation	
Administration	
Permit procedures	14-51
Establishment of development permit	14-26
Taxation and finance	20-42 et seq.
See: TAXATION AND FINANCE	
Utilities	
Water service	
Connections	
Connection permit required	24-158
Zoning	
Administration	
Annexation	
Annexation permitted	26-246
Supplementary district regulations	
Home business	
Permit requirement	26-841
LIGHTING, LIGHTS	
Zoning	
Supplementary district regulations	
Lighting	
Fixture compliance	26-712
LOAN AGREEMENT WITH THE NEW MEXICO ENVIRON- MENT DEPARTMENT (Appendix D)	
Amendment of ordinance	D.19
Annual loan repayment account	D.10
Application of revenues	D.11
Authorization of	
Loan agreement	D.6
Project	D.5
Default	D.14
Definitions	D.1
Duties upon default	D.17
Enforcement; venue	D.15
Findings	D.3
Lien of loan agreement and note	D.12

CODE INDEX

	Section
LOAN AGREEMENT WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT (Appendix D) (Cont'd.)	
Operation of project	D.8
Ordinance irrevocable	D.20
Other obligations	D.13
Ratification	D.2
Remedies upon default	D.16
Repealer clause	D.22
Severability clause	D.21
Special limited obligations	D.7
System	D.4
Termination	D.18
Use of proceeds	D.9

M

MAYOR

Elections

 Mayor and village council

 Terms

2-227

Village council

2-44 et seq.

 See: VILLAGE COUNCIL

Zoning

 Administration

 Zone change

 Mayoral review

26-102

MEETINGS

 Boards, committees and commissions

 Planning and zoning commission

2-147

 Village council

 Meetings

 Quorum requirements

2-67

 Regular meeting days established by resolution

2-66

MISDEMEANORS

 Traffic and vehicles

22-64 et seq.

 See: TRAFFIC AND VEHICLES

MOBILE HOMES AND MOBILE HOME PARKS

Zoning

 Zones and regulations

 Residential zone 1 (R-1)

 Mobile home installation

26-387

TIJERAS CODE

	Section
MOBILES HOMES AND MOBILE HOME PARKS (Cont'd.)	
Residential zone 2 (R-2)	
Mobile home installation	26-412
MOTOR VEHICLES AND TRAFFIC	
Animals	
Care and control	
Animals transported in vehicles	4-128
Breaking into animal care services facilities or vehicles	4-130
Traffic and vehicles	22-42 et seq.
See: TRAFFIC AND VEHICLES	
Zoning	26-127 et seq.
See: ZONING	

N

NOTICES, NOTIFICATION	
Streets, roads, sidewalks and other public places	
Streets and roads	
Naming	
Notification of road name change	16-43
Traffic and vehicles	22-44 et seq.
See: TRAFFIC AND VEHICLES	
Utilities	
Wastewater service	
Billing, fees, rates and charges	
Notices	24-335
Zoning	
Administration	
Violations, complaints and notification	26-37
Zone change	
Notification by mail	26-97

O

OFFICERS AND EMPLOYEES	
Animals	
Administration	
Procedure for county manager and animal care services offi- cers	4-31
Elections	
Local election	
Municipal officers to be elected at the regular local election ..	2-209
Village clerk	2-294 et seq.
See: VILLAGE CLERK	

CODE INDEX

	Section
OFFICERS AND EMPLOYEES (Cont'd.)	
Village council	
Mayor	
Authority to appoint officers.....	2-45
P	
PERSONNEL POLICIES AND PROCEDURES (Appendix A)	
Compensation.....	A.8
Computer and cell phone use	A.18
Conflict of interest	A.12
Disciplinary action, appeal, and grievance	A.16
Drug free workplace policy	A.14
Employee benefits	A.10
Employment by the village of Tijeras	A.4
Hourly/salary employees	A.17
Performance evaluations	A.7
Probationary period.....	A.6
Prohibitions	A.13
Responsibilities of the	
Governing body for personnel functions	A.2
Mayor for personnel functions.....	A.1
Village clerk/manager.....	A.3
Sexual harassment policy.....	A.15
Termination of employment	A.11
Volunteer fire department personnel	A.5
Work hours.....	A.9
PLANNING AND DEVELOPMENT	
Boards, committees and commissions.....	2-142 et seq.
See: BOARDS, COMMITTEES AND COMMISSIONS	
Floods	
Flood hazard mitigation	
Establishment of development permit	14-26
Subdivisions	
Character of development	18-6
Zoning.....	26-67 et seq.
See: ZONING	
POLICIES AND PROCEDURES	
Quasi-judicial hearings	
Appeal	2-355
Authority and jurisdiction	2-347
Definitions	2-350
Deliberations	2-352

TIJERAS CODE

	Section
POLICIES AND PROCEDURES (Cont'd.)	
Interpretation	2-349
Purpose	2-348
Records of proceedings	2-354
Testimony under oath	2-351
Title	2-346
Written decision	2-353

Q

QUALIFICATIONS

Animals	
Care and control	
Admission of qualified assistance animals to public places ...	4-122
Village council	
Vacancies	
Temporary qualified elector for mayoral or council vacancies	2-93

R

RABIES CONTROL

Animals	
Care and control	
Unlawful use of rabies tag	4-141

REAL ESTATE, REAL PROPERTY

Buildings and building regulations	
Fair housing	
Discrimination in residential real estate-related transactions .	6-135

RECORDS AND REPORTS

Boards, committees and commissions	
Planning and zoning commission	
Records	2-148
Policies and procedures	
Quasi-judicial hearings	
Records of proceedings	2-354
Subdivisions	
Administration	
Public records	18-34
Plats	
Vacation of plat	
Recording	18-268

CODE INDEX

	Section
RECORDS AND REPORTS (Cont'd.)	
Zoning	
Administration	
Information and records	26-35
Records review	26-36
RENTALS	
Buildings and building regulations	
Fair housing	
Discrimination in the sale or rental of housing	6-134
S	
SALES	
Animals	
Administration	
Permits	
Requirements for sale of offspring.....	4-59
Care and control	
Sale and display of animals	4-139
Buildings and building regulations	
Fair housing	
Discrimination in the sale or rental of housing	6-134
Fire prevention and protection.....	12-71 et seq.
See: FIRE PREVENTION AND PROTECTION	
SOLID WASTE	
Animals	
Care and control	
Animal waste.....	4-129
Utilities	24-239 et seq.
See: UTILITIES	
Zoning	
Supplementary district regulations	
Water and wastewater facilities.....	26-616
STREETS, ROADS, SIDEWALKS AND OTHER PUBLIC PLACES	
Animals	
Care and control	
Admission of qualified assistance animals to public places...	4-122
Streets and roads	
Naming	
Approval of road names	16-40
Approval requirements	16-44
Changing road names	16-41

TIJERAS CODE

	Section
STREETS, ROADS, SIDEWALKS AND OTHER PUBLIC PLACES	
(Cont'd.)	
Collaboration with county commissioners	16-42
Notification of road name change	16-43
Zoning	26-791 et seq.
See: ZONING	
SUBDIVISIONS	
Administration	
Amendment procedure	18-33
Appeals	
Filing procedure	18-120
Fees and charges	
Fees	18-57
Modifications and exceptions	
Requirement modifications and exceptions	18-88
Public records	18-34
Authority and jurisdiction	18-2
Character of development	18-6
Construction violations	18-8
Definitions	18-4
Design standards	
Blocks	18-325
Compliance with minimum standards and village policies	18-322
Drainage	18-323
Easements	18-324
Lots	18-326
Public sites and open spaces	18-327
Disclosure statement	18-7
Floods	
Flood hazard mitigation	
Standards for flood hazard reduction	
Standards for subdivision proposals	14-80
General information and guidance	18-5
Penalties	18-9
Plats	
Considerations for good subdivision platting	18-139
Final plat	
Final plat procedure	18-216
Plans and data for final approval	18-217
Pre-application	
Plans and data for pre-application	18-163
Pre-application procedure	18-162

CODE INDEX

	Section
SUBDIVISIONS (Cont'd.)	
Preliminary plat	
Plans and data for preliminary approval	18-196
Preliminary plat procedure	18-195
Summary plat procedure	
Alternate summary process; approval of subdivision plat	18-243
Vacation of plat	
Application procedure	18-266
Necessity	18-265
Public hearing	18-267
Recording	18-268
Purpose	18-3
Required improvements	
Authorization	18-294
Installation assurance	18-295
Installation of improvements	18-296
Title	18-1
Utilities	
Wastewater service	
Standards	
Requirements for new land subdivisions	24-365
 T 	
TAXATION AND FINANCE	
Alcoholic beverages	
Definitions	20-19
License tax	
Failure to pay tax	20-43
Imposition of liquor license tax	20-42
Penalty	20-44
Gross receipts tax	
Dedication	20-65
General provisions	20-63
Imposition of tax	20-62
Specific exemptions	20-64
 TOWERS AND ANTENNAS	
Zoning	
Supplementary district regulations	
Towers	26-623
 TRAFFIC AND VEHICLES	
Animals	

TIJERAS CODE

	Section
TRAFFIC AND VEHICLES (Cont'd.)	
Care and control	
Animals transported in vehicles	4-128
Breaking into animal care services facilities or vehicles	4-130
Uniform traffic ordinance	
Payment of assessments	
Failure to pay penalty assessment	
Misdemeanor	22-92
Penalties imposed	22-91
Notification of the department of motor vehicles	22-93
Penalty assessment misdemeanors	
Effect	22-66
Notice of penalty assessment misdemeanors.....	22-64
Option.....	22-65
Penalty assessment	
Acceptance of a notice to appear	22-44
Exclusions	22-43
Penalty assessment fee.....	22-45
Violation of state traffic ordinance defined	22-42
Zoning.....	26-127 et seq.
See: ZONING	

U

UTILITIES

Administration	
Identity theft program	
Detecting red flags	24-43
Identification of red flags	24-42
Preventing and mitigating identity theft.....	24-44
Program administration.....	24-46
Program adoption.....	24-40
Program purpose and definitions	24-41
Program updates	24-45
Wastewater service	
Administration	
Application for connection.....	24-297
Connection required	24-296
Management, rules, regulations and standards	24-295
Responsibility for making connections.....	24-298
Water operator	24-294
Applicability	24-261
Billing, fees, rates and charges	
Additional remedy	24-337

CODE INDEX

	Section
UTILITIES (Cont'd.)	
Connection fees	24-330
Delinquencies and disconnections	24-333
Discontinuation of wastewater service	24-334
Forms and standards	24-336
Notices	24-335
Special charges	24-332
Wastewater system use fees.....	24-331
Definitions	24-262
Penalty	24-265
Private sewage disposal	24-264
Sewer use regulations	
Damage to wastewater system; excavations	24-392
Emergency shutoff to repair system.....	24-393
Sewage characteristics.....	24-391
Short title	24-259
Standards	
Customer's continuing responsibilities	24-364
Requirements for new buildings.....	24-366
Requirements for new land subdivisions	24-365
Sand traps and grease traps	24-363
Unauthorized disposal.....	24-263
Wastewater utility.....	24-260
Water service	
Administration	
Management, rules, regulations and specifications.....	24-102
Water operator	24-101
Applicability	24-68
Billing, fees, rates and charges	
Additional remedy	24-137
Billing and connection charges.....	24-134
Delinquencies and disconnections	24-135
Temporary termination of service.....	24-136
Water rates for construction projects within village.....	24-133
Connections	
Connection permit required.....	24-158
Final authority	24-162
Inspection of hook-up	24-163
Metering.....	24-159
Water service connections	
Existing lines.....	24-161
New construction of proposed lines	24-160

TIJERAS CODE

	Section
UTILITIES (Cont'd.)	
Conservation	
Water conservation	24-214
Definitions	24-69
Extension of service	
Extensions of main lines for new construction	24-195
Penalty	24-71
Short title	24-66
Transfer of domestic right to use water	24-70
Use regulations	
Damages to system	24-238
Emergency shut off	24-237
Termination for misconduct	24-240
Waste of water	24-239
Water utility	24-67

V

VARIANCES

Floods	
Flood hazard mitigation	
Administration	
Variance procedures	14-52
Zoning	26-157 et seq.
See: ZONING	

VENDORS

Zoning	
Administration	26-39
Supplementary district regulations	
Overnight and drive through vendors	26-624

VILLAGE CLERK

Villager clerk as chief administrative officer	2-294
--	-------

VILLAGE COUNCIL

Compensation	2-20
Elections	
Mayor and village council	
Terms	2-227
Legislative branch	2-19
Mayor	
Authority to appoint officers	2-45
Duties during formal occasions or receptions	2-46
Duties	2-44

CODE INDEX

	Section
VILLAGE COUNCIL (Cont'd.)	
Meetings	
Quorum requirements	2-67
Regular meeting days established by resolution	2-66
Vacancies	
Temporary qualified elector for mayoral or council vacancies ..	2-93
Zoning	
Administration	
Conditional use	
Approval by the village council	26-187
W	
WATER AND SEWERS	
Utilities	24-66 et seq.
See: UTILITIES	
Zoning	26-526 et seq.
See: ZONING	
WATER PROJECT FUND LOAN/GRANT AGREEMENT. See Appendix C	
Y	
YARDS AND OPEN SPACES	
Subdivisions	
Design standards	
Public sites and open spaces	18-327
Z	
ZONING	
Administration	
Administrative official	26-33
Annexation	
Annexation permitted	26-246
Request for annexation	26-247
Appeals	
Appeal to district court	26-226
Application	26-222
Decision	26-225
Public hearing	26-223
Right to appeal	26-221
Stay of proceedings	26-224
Conditional use	
Application	26-188

TIJERAS CODE

	Section
ZONING (Cont'd.)	
Approval by the village council	26-187
Expiration	26-191
Guidelines	26-190
Review process for conditional use	26-189
Fees and charges	
Change by resolution.....	26-275
Fees.....	26-274
General provision	26-273
Information and records.....	26-35
Inspection.....	26-34
Plan requirements	
Additional plan requirements for CB-1, CB-2, G/I and SU Zones.....	26-128
Application legibility; review fee	26-122
Construction	26-124
Planning	26-123
Remodeling.....	26-125
Roadway access	26-126
Sunset clause	26-129
Traffic impact analysis	26-127
Process, planning and review	
Final approvals.....	26-68
Review and approval for erecting building or altering building footprint.....	26-67
Records review	26-36
Subcontractors.....	26-38
Variance	
Additional conditions	26-160
Variance approval criteria	26-159
Variance approval	26-157
Variance denial	26-158
Vendors	26-39
Violations, complaints and notification.....	26-37
Zone change	
Application.....	26-96
Authority to amend	26-95
Commission recommendation for approval or denial.....	26-99
County review and processing.....	26-103
Decision	26-101
Mayoral review	26-102
Notification by mail	26-97
Planning and zoning commission review.....	26-98

CODE INDEX

	Section
ZONING (Cont'd.)	
Public hearing	26-100
Zone map updated	26-104
Boards, committees and commissions.....	2-142 et seq.
See: BOARDS, COMMITTEES AND COMMISSIONS	
Buildings and building regulations	
Administration	
Permit	
Compliance with comprehensive zoning required	6-40
Definitions	26-5
Interpretation	26-4
Jurisdiction	26-3
Nonconformities	
Nonconforming uses	
Abandonment	26-332
Expansion	26-331
General scope and intent.....	26-330
Nonconforming lot size	26-333
Penalties	26-6
Purpose.....	26-2
Supplementary district regulations	
Access to structures.....	26-615
Fire sprinklers	26-621
Height	
Height regulations of buildings and structures.....	26-654
Home business	
Permit requirement.....	26-841
Inoperable vehicles.....	26-625
Lighting	
Fixture compliance.....	26-712
Mobile food units.....	26-622
Off-street parking and loading	
Off-street loading requirements	
Provision and maintenance of loading space	26-816
Off-street parking	
Designation of parking	26-793
Ground space availability.....	26-792
Parking design standards	26-796
Paved parking areas; dirt or gravel parking areas.....	26-794
Required parking spaces.....	26-795
Requirements for new building or structure	26-791
Overnight and drive through vendors	26-624
Professional services	26-618

TIJERAS CODE

	Section
ZONING (Cont'd.)	
Refuse disposal and salvage material control	26-617
Roads and roadways	
Access authorization	26-739
Development, approval and access to state roadways	26-738
Signs	
Banners	26-684
Commercial, special use, and government zones	26-683
Residential zones	26-682
Storage tanks	26-619
Towers	26-623
Water and wastewater facilities	26-616
Water storage tanks	26-620
Title	26-1
Zones and regulations	
Commercial Business Zone 1 (CB-1)	
Conditional uses	26-470
Development plan requirements	26-471
Intent	26-467
Minimum lot size	26-468
Permissive uses	26-469
Commercial, Industrial, and Government/Institutional Zones	
Applicability	26-444
Compatibility of property uses	26-446
General preservation; compliance	26-445
Inclusion of traffic impact analysis	26-449
Preservation of land character and integrity	26-447
Zoning areas not to become a detriment	26-448
Government/Institutional Zone (G/I)	
Compliance	26-553
Intent	26-552
Lot size	26-555
Setback requirements	26-556
Special use zone approval process	26-554
Industrial/Manufacturing/Service Zone 1 (I/M-3)	
Conditional uses	26-528
Development plan requirements	26-529
Intent	26-524
Minimum lot size	26-525
Permissive uses	26-527
Water use limits	26-526
Large Commercial Zone 2 (CB-2)	
Conditional uses	26-499

CODE INDEX

	Section
ZONING (Cont'd.)	
Intent	26-496
Large commercial development plans and requirements.....	26-500
Minimum lot sizes.....	26-497
Permissive uses	26-498
Provisions applicable to all zones	26-355
Residential Zone 1 (R-1)	
Conditional uses	26-389
Intent and purpose	26-386
Lot size	26-390
Mobile home installation.....	26-387
Permissive uses	26-388
Setback requirements	26-391
Residential Zone 2 (R-2)	
Conditional uses	26-414
Intent	26-411
Lot size; setback requirements	26-415
Mobile home installation.....	26-412
Permissive uses	26-413
Special Use Zone (S-U)	
Defined.....	26-579
Intent	26-578
Removal of zones	26-583
Requirements for zone change	26-581
Special conditions	26-580
Special uses authorized.....	26-582
Zoning map.....	26-356

