

TITLE XV: LAND USAGE

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CHAPTER 150: GENERAL PROVISIONS

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VILLAGE PLANNING AND ZONING COMMISSION

' 150.01 CREATION.

There is hereby created a Village Planning and Zoning Commission to be composed of five full-time residents of the village who are qualified electors eligible to vote in a municipal election. The members of the Village Planning and Zoning Commission shall be nominated by the Mayor and approved by the Board of Trustees to serve for the respective terms established by this section.

(Ord. 173, passed 6-17-1997; Am. Ord. 223, passed 6-19-2007; Am. Ord. 231, passed 12-16-2008)

' 150.02 TERMS OF OFFICE.

(A) The term of each member of the Village Planning and Zoning Commission shall be two years from the date of appointment.

(B) Upon the expiration of the term of any member, the vacancy shall be filled by the appointment as herein provided.

(C) In the event a vacancy occurs in the Commission prior to the expiration of the term of the member, it shall be filled by the appointment, as herein provided, of a member whose term shall expire at the end of the original term in which the vacancy occurred.

(Ord. 173, passed 6-17-1997)

' 150.03 POWERS AND DUTIES.

(A) The Village Planning and Zoning Commission shall have power and authority to study and investigate the subject of village planning, for the purpose of formulating a master plan, and shall make surveys as it deems necessary for the formulation of a master plan.

(B) The Village Planning and Zoning Commission shall have power and authority to hold public hearings on the formulation of a master plan, request for variances to zoning regulations and any subject matter pertaining to enforcement of building codes.

(C) All personnel required to be hired for services under this section shall be appointed by the Village Board of Trustees from a list submitted to them by the Village Planning and Zoning Commission.

(D) The Village Planning and Zoning Commission may make recommendations to the Village Board of Trustees for the passage of ordinances which it deems advisable.

(E) The Village Planning and Zoning Commission shall file an annual report with the Mayor and the Village Board of Trustees of its activities, meetings and progress.

(F) The Village Planning and Zoning Commission shall have other powers, authority and jurisdiction as may be from time to time delegated to the Commission by ordinance of the Village Board of Trustees or by resolution of the Village Board of Trustees.

(G) The Village Planning and Zoning Commission shall have the power and authority to fulfill and perform its functions, promote village planning, and carry out the purposes of NMSA ' ' 3-19-1 *et seq.*, as amended, subject to the approval in all respects by the Board of Trustees.

(H) The Village Planning and Zoning Commission shall have the power and authority to enforce and carry out the provisions of the laws of the state and the ordinances of the village; provided, however, that the actions of the Village Planning and Zoning Commission shall be subject to the approval by the Board of Trustees; provided further, that any power and authority relating to planning, platting, subdividing, zoning, which is expressly given to the Board of Trustees by this code, shall be exercised first by the Village Planning and Zoning Commission whose recommendations shall then be considered by the Board of Trustees, which recommendations may be either followed in whole, in part or not followed. The Board of Trustees shall have the power and authority to modify any action taken by the Village Planning and Zoning Commission without resubmission of the matter to the Village Planning and Zoning Commission for further review.

(Ord. 173, passed 6-17-1997; Am. Ord. 217, passed 12-20-2005)

' 150.04 RULES AND REGULATIONS.

(A) The Commission shall have authority to elect the Chairperson, Secretary and any other necessary officers. The powers and duties of the officers and of any employees of the Village Planning and Zoning Commission shall be established by the Commission by resolution.

(B) The Village Planning and Zoning Commission shall adopt rules and regulations for the conduct of its business and shall publish the rules and regulations, together with procedures for compliance with the rules and regulations.

(C) The Village Planning and Zoning Commission shall meet at least once a month, but may meet more often if necessary. The Commission shall establish a regular time and place to meet and conduct its business.

(D) For the conduct of ordinary business, a quorum of the Village Planning and Zoning Commission shall consist of three regularly appointed members.

(E) The Village Planning and Zoning Commission shall keep a record of its transactions, findings, resolutions and determinations.

(F) The Chairperson, elected by the Village Planning and Zoning Commission, shall serve for a one-year term.
(Ord. 173, passed 6-17-1997)

' 150.05 REMOVAL OF MEMBERS.

The Board of Trustees may, by a majority vote of all of the members, remove any member of the Village Planning and Zoning Commission.
(Ord. 173, passed 6-17-1997)

' 150.06 BUILDING INSPECTOR.

The Village Planning and Zoning Commission shall have the power and authority to perform all acts of the Village Building Inspector as set forth in this code.
(Ord. 173, passed 6-17-1997)

CHAPTER 151: BUILDING REGULATIONS; CONSTRUCTION

Section

- 151.01 Adoption of Building Code
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- 151.04 Multiple-purpose buildings
- 151.05 Permit fees
- 151.06 Remedies of village
- 151.07 Excavation of public streets
- 151.08 Temporary structures; placement

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' 151.01 ADOPTION OF BUILDING CODE.

There is hereby adopted by the village for the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures, and providing for the issuance of permits and collection of fees therefor, and providing penalties for the violation thereof, the New Mexico Uniform Building Code, being the *Uniform Building Code 1970 Edition*, Volume One, as published by the International Conference of Building Officials, as approved and promulgated by the Construction Industries Commission of New Mexico, including all amendments thereto and all future editions thereof, unless otherwise amended in the future by the Board of Trustees. One copy of the code has been and now is filed in the office of the Village Clerk-Treasurer and the same is hereby adopted and incorporated as fully as if set out at length herein, except as to the section of the Code relating to building permit fees, which fees shall be in accordance with ' 151.05 and the Uniform Building Code and the building permit fees established hereby shall be in force from and the provisions thereof shall be controlling within the limits of the village.

(75 Code, ' 6-1-1)

' 151.02 REQUIRED PAYMENTS.

(A) It shall be unlawful to construct, alter, remove, demolish a building or any other structure or to install a manufactured or modular structure within the limits of the village without first obtaining a village building site permit and a manufactured/modular structure installation permit or state building permit where applicable.

(B) The applicable permits shall be displayed in a prominent place on the premises where the action proposed above is to be accomplished at all times during the project.

(C) Under no circumstances shall any public services such as sewer and water hookup be installed without the above required permits.

(Ord. 1, passed 12-8-1956; Am. Ord. 204, passed 5-20-2003; Am. Ord. 244, passed 8-15-2012)

' 151.03 DEFINITIONS.

COMMERCIAL BUILDINGS. Buildings or parts of buildings to be used principally for the purpose of making a profit or gain; provided that the term ***COMMERCIAL BUILDING*** shall not be deemed to include single-family dwellings built for leasing purposes, but shall include, but not be restricted to duplexes, apartment houses, motels, cabin camps, hotels, and additions to or alterations of single-family dwellings made for rental purposes.

COST OF LABOR AND MATERIALS. The amount of money to be expended for the construction, alteration, removal, demolition, or reparation of building; said amount to be determined in the case of residential buildings by multiplying the square footage of said building by the sum of \$8. In the case of commercial buildings, by multiplying the square footage of said building by the sum of \$6.

RESIDENTIAL BUILDINGS. Buildings or parts thereof to be used for the purpose of habitation and shall include but not be restricted to private homes, private garages, outhouses and all other outbuildings used principally in connection with the actual living quarters.

SQUARE FOOTAGE. The number of square feet found by using the outside dimensions of said building.
(Ord. 1, passed 12-8-1956)

' 151.04 MULTIPLE-PURPOSE BUILDING.

Where a building shall be built for residential and commercial purpose as hereinabove defined, the building permit fee shall be determined according to the square footage of space to be used for each said purpose and assessment. Said fee shall be made on the basis provided in ' 151.03.

(Ord. 1, passed 12-8-1956)

' 151.05 PERMIT FEES.

The following fees shall be charged for the issuance of permits as aforesaid and shall be paid in cash to the Village Clerk-Treasurer at the time of making the application:

(A) A \$50 manufactured/modular structure installation permit to ensure proper installation procedures are followed.

(B) A \$25 site location fee to ensure that any proposed new structure or addition to an existing structure is situated on the lot in such a manner to comply with all applicable setback requirements required by the zoning ordinance. The permit issued shall have the issue date with the expiration of one year and be signed by the Village Clerk or Deputy.

(75 Code, ' 6-1-5) (Am. Ord. 185, passed 7-21-1998; Am. Ord. 204, passed 5-20-2003; Am. Ord. 217, passed 12-20-2005)

' 151.06 REMEDIES OF VILLAGE.

In case any building or structure is erected, constructed, altered, repaired, converted or maintained in violation of this chapter, the proper authorities of the village, in addition to any other remedies herein provided, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, alteration, repair or maintenance, to restrain, correct or abate such violation, to prevent any act, conduct or use in or about such premises in violation of this chapter.

(Ord. 1, passed 12-8-1956)

' 151.07 EXCAVATION OF PUBLIC STREETS.

It shall be unlawful for any person to excavate any street or public right-of-way in the village without first obtaining a permit and permission from the village by making application to the Village Clerk-Treasurer. Excavation in streets and avenues shall be made in a manner as to impede travel as little as possible and the time that the excavation shall be opened may be limited by the village. Efficient barricades shall be erected around all trenches and embankments made by such a person within the limits

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of any street or right-of-way and red lights shall be maintained thereon from dark to daylight until the street or right-of-way shall be restored to a safe passable condition. At no time during the progress of the work shall sidewalks be unnecessarily blocked of travel. Any excavation shall be compacted to 95% and repaved and the person making the excavation shall be responsible for any repairs for a period of one year from the date that the excavation is repaved.

(Ord. 104, passed 7-5-1983) Penalty, see ' 10.99

' 151.08 TEMPORARY STRUCTURES; PLACEMENT.

(A) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

TEMPORARY STRUCTURE. Any structure, including a tent, which is not attached to a permanent foundation, or which lacks indoor plumbing. Exempt from this definition are the following:

- (a) Any trailer, mobile housing unit or recreational vehicle as defined in this code;
- (b) An accessory structure used solely for storage which lacks indoor plumbing, but which otherwise complies with the Uniform Building Code;
- (c) A structure from which merchandise or services are not offered for sale to the general public and which is under 100 square feet in area; provided, any structure erected after October 17, 1995, shall be securely anchored to resist movement due to wind, flood or other factors;
- (d) A structure from which merchandise or services are sold or offered for sale to the general public and which is under 100 square feet in area, provided that:
 - 1. The structure is open for business within two weeks of its placement on subject property; and
 - 2. The structure is removed from subject property within two weeks of the discontinuance of the sale of merchandise or services to the public or within six months after its placement on the property, whichever is less.
- (e) A structure displayed for sale purposes only when securely anchored to resist movement due to wind, flood or other factors;
- (f) A structure erected on property owned by the village;
- (g) A structure used as a construction office at a site where construction work is being carried on; and

(h) A structure which complies with the Uniform Building Code, except for attachment to a foundation, used for instruction at a school; and

(I) A structure which is equal to or greater than 100 square feet in area and which is erected for the purpose of conducting a special promotion for a like business in conjunction with and adjacent to the building duly licensed by and operating within the village limits, provided that the structure is erected only once during any three-month period, that the structure remains no longer than a period of 18 consecutive days, to include three weekends, that prior written approval from the Board of Trustees is obtained together with the conditions as the Board of Trustees may require, that a village building permit is obtained, and that the structure is adequately secured to the ground so as to resist movement caused by wind, flood or other factors. Extensions shall only be by special permit as specified in division (B) below. The applicant shall be responsible for maintaining the property in a clean and orderly manner. If the applicant fails to clean the property, the Board of Trustees shall contract for the correction of the accumulation of trash or order its correction by the village at the expense of the applicant or owner of the property. The action by the village may jeopardize the approval of future permits.

(B) (1) Except as otherwise provided in division (A) above, no temporary structure shall be located in the village unless a special permit is first obtained for its use from the Board of Trustees. Duration of this special permit shall not exceed three months, and only one renewal shall be permitted.

(2) The Board of Trustees shall grant a special permit only on payment of a filing fee of \$100 and a showing at a public hearing that:

(a) The structure is adequately secured to the ground to resist movement due to wind, flood or other factors;

(b) All property owners within 200 feet of the property for which the permit is sought, excluding public rights-of-way, have been notified by first class mail not less than 15 days before the hearing, of the time, place and purpose of the hearing on the issuance of the permit; and

(c) The placement of a temporary structure is not detrimental to the surrounding properties.

(C) Structures which become legal non-conforming uses upon the passage of this section, shall be subject to its provisions two years from the effective date hereof.

(D) No temporary structure shall be located in AA, A, B, C or E zoning districts, nor shall it be used for habitation purposes.

(E) Temporary buildings shall have no utility connections other than temporary electrical connections. (Ord. 162, passed 10-17-1995)

' 151.99 PENALTY.

Any person, firm or corporation who shall violate any provisions of this chapter shall, upon conviction, of such violation, be fined in a sum of not less than \$50, nor more than \$200, or shall be imprisoned for a period not to exceed 30 days, or shall be subject to both such fine or imprisonment in the discretion of the Court trying the case. Each day that any person, firm or corporation shall be in violation of any provision of this chapter shall constitute a separate offense.

(Ord. 1, passed 12-8-1956; Am. Ord. 204, passed 5-20-2003)

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CHAPTER 152: SUBDIVISIONS

Section

General Provisions

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- 152.02 Authority
- 152.03 Jurisdiction
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- 152.05 Definitions
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GENERAL PROVISIONS

' 152.01 PURPOSE.

These subdivision regulations are to provide for the harmonious development of the village and its environs in order to establish conditions favorable to the health, safety, convenience and general welfare of citizens of the village.

(Ord. 163, passed 10-17-1995)

' 152.02 AUTHORITY.

These land subdivision regulations are authorized by NMSA ' ' 3-19-1 through 3-20-16, as amended.

(Ord. 163, passed 10-17-1995)

' 152.03 JURISDICTION.

These land subdivision regulations shall govern all platting of land within the village and all of the territory lying within three miles of the village's corporate limits or the larger area, as may be provided for from time to time under state law.

(Ord. 163, passed 10-17-1995)

' 152.04 INTERPRETATION.

The provisions of these regulations shall be held to be minimum requirements to meet the expressed intent of the subject regulations.

(Ord. 163, passed 10-17-1995)

' 152.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AASHTO. American Association of State Highway and Transportation Officials.

AREA PLAN. A plat or sketch of any planned future development of undeveloped land which is contiguous to a proposed subdivision and is under control or ownership of the subdivider. Such a plan should indicate general land uses and major arterials.

ARTERIAL STREET. A street which is used primarily for serving large volumes of comparatively high speed traffic from one area of the village to the other.

BIKE PATHS. A portion of the roadway or separate pathway designated for use by bicycles.

BLOCK. A grouping of parcels or lots together in one tract of land that is a unit of an overall subdivision with the parcels of land being the smallest unit.

BOARD OF TRUSTEES. The Governing Body of the village. Final approval of all subdivision plats in the planning and platting jurisdiction of the village rests with this body.

BUILDING LINE. A line established by the setback requirements, as provided herein.

COLLECTOR STREET. A street which carries traffic from local streets to the major arterial streets or highways.

COUNTY. Otero County, New Mexico.

COUNTY CLERK. The elected Clerk of the County or the Clerk=s authorized representative.

CUL-DE-SAC. A minor street with only one outlet and culminated by a turn-around.

DRAINAGE CHANNEL. A natural water course or indenture for the drainage of surface water.

DRAINAGE PLAN. A plan indicating on-site drainage proposal, the passage of storm waters through the development and safe discharge of run-off onto adjacent lands or facilities. Also, a comprehensive analysis of:

- (1) The existing storm drainage conditions of a proposed development; and
- (2) The disposal of the increased runoff which is generated by the proposed development.

EASEMENT. A grant by the property owner of the use, for specific purposes, of a strip of land by the general public, a corporation or a certain person or persons.

ENGINEER. A person who is engaged in the practice of engineering and is qualified to so practice as attested by his or her legal registration as a professional engineer in the state.

IMMEDIATE FAMILY MEMBER. Husband, wife, father, stepfather, mother, stepmother, brother, stepbrother, sister, stepsister, son, stepson, daughter, stepdaughter, grandson, stepgrandson, granddaughter, stepgranddaughter, nephew and niece, whether related by natural birth or adoption.

IMPROVEMENTS. Infrastructure such as streets, curbs, gutters, sidewalks, fire hydrants, storm drainage facilities, bike paths, trails and water, sewer and gas systems or parts thereof.

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LAND SURVEYOR. A person who engages in the practice of land surveying and is qualified to so practice as attested by his or her legal registration as a land surveyor in the state.

LOT. A portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development. It is also a tract of land described by metes and bounds and held in separate ownership, as shown on the records of the County Assessor.

MINOR RESIDENTIAL STREET. A street of relatively short length that provides direct access to a limited number of abutting residential properties and is designed to discourage its use by through traffic.

MUNICIPAL CODE or **CODE.** The ordinances of the village, known as the Tularosa Code.

PERFORMANCE BOND. A surety bond made out to the village in an amount equal to the estimated full cost of the improvements; the cost being estimated by the Village Engineer and the surety bond being legally sufficient to secure to the village that the improvements will be constructed in accordance with these regulations.

PLAT or **REPLAT.** A map, chart, survey or plan certified by a licensed professional surveyor which contains a description of subdivided or resubdivided land with ties to permanent survey monuments.

PUBLIC RIGHTS-OF-WAY. The total area of land deeded, reserved by plat or otherwise acquired by the village, the county or the state.

ROADWAY. The portion of the street available for vehicular traffic.

SETBACK. The lateral distance between the street or property line and building, gas pump, curb base, display stand or other object.

SIDEWALK. A pedestrian walkway with permanently improved surfacing.

STREET. A public way, which has been dedicated or served by plat other than an alley which affords the principal means of access to abutting property.

SUBDIVIDER. An owner or an owner's agent who undertakes the subdivision of land as set forth in these regulations.

SUBDIVISION or **SUBDIVIDE.** Subdivision for the purpose of approval by the village:

(1) For the area of land within the corporate boundaries of the village, the division of land into two or more parts by platting or by metes and bounds description into tracts for the purposes of:

(a) Sales for building purposes;

- (b) Laying out a municipality or any part thereof;
- (c) Adding to a municipality;
- (d) Laying out suburban lots.

(2) For the area of land within the extraterritorial subdivision and platting jurisdiction of the village (as defined in NMSA ' 3-20-5), the division of land into two or more parts by platting or by metes and bounds description into tracts of less than five acres in any one calendar year for the purposes of:

- (a) Sales for the building purposes;
- (b) Laying out a municipality or any part thereof;
- (c) Adding to a municipality;
- (d) Laying out suburban lots.

However, *SUBDIVISION* does not include:

- (1) The sale or lease of apartments, offices, stores, or similar space within a building;
- (2) The division of land created by court order where the order creates no more than one parcel per party;
- (3) The division of land resulting only in the alteration of parcel boundaries where parcels are altered for the purpose of increasing or reducing the size of contiguous parcels and where the number of parcels is not increased;
- (4) The division of land to create burial plots in a cemetery;
- (5) The division of land to create a parcel that is sold or donated as a gift to an immediate family member;
- (6) The division of land created to provide security for mortgages, liens, or deeds of trust, provided that the division of land is not the result of a seller-financed transaction;
- (7) The division of land to create a parcel that is donated to any trust or nonprofit corporation granted an exemption from federal income tax, as described in section 501(c)(3) of the U.S. I.R.S. code of 1986, as amended; school, college, or other institution with a defined curriculum and a student body and faculty which conducts classes on the regular basis; or to any church or group organized for the purpose of divine worship, religious teaching, or other specifically religious activity.

TRAILS. A narrow path designed for use by pedestrians and horseback riders.

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VILLAGE. The Village of Tularosa, New Mexico.

VILLAGE ATTORNEY. An attorney employed or retained by the village whose duties include reviewing and approving contracts or agreements entered into by the village.

VILLAGE ENGINEER. A registered Professional Engineer employed or retained by the village whose duties include the review and approval of engineering drawings and/or designs of projects such as drainage, street construction and the like.

(Ord. 163, passed 10-17-1995; Am. Ord. 205, passed 11-18-03)

' 152.06 VARIANCES AND EXCEPTIONS.

(A) Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this regulation would result in a need for variance or exception because of unusual topography, impose unreasonable burdens or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Board of Trustees may vary, modify or waive the requirements. No variance shall be allowed when the variance is requested because of inadequate drainage.

(B) Application for any variation shall be submitted in writing by the subdivider at the time the preliminary plat is filed and shall state fully the grounds for the application and the facts relied upon by the subdivider.

(C) In no case shall any variation or modification be contrary to the mandatory requirements of state law. The variation shall not be in conflict with any zoning ordinance and map.

(D) Specifications or supplementary data required by these regulations for a preliminary or final plat may be waived whenever the specifications or date are determined by the Board of Trustees to be unnecessary for the consideration of the plat.

(Ord. 163, passed 10-17-1995)

SUBDIVISION PROCEDURE; FEES

' 152.25 PRE-APPLICATION.

Prior to the filing of an application for approval of a preliminary plat, the subdivider is urged to confer with village officials so as to become acquainted with these regulations.

(Ord. 163, passed 10-17-1995)

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' 152.26 PRELIMINARY PLAT PROCEDURE.

(A) Application for subdivision shall be submitted to the village on prescribed forms.

(B) Two copies of the preliminary plat and supplemental material will be submitted by the subdivider with the written application. These copies will be reviewed by the Planning and Zoning Commission and a written report recommending approval, conditional approval or disapproval submitted to the developer.

(C) The Board of Trustees shall examine and review the preliminary plats and final plats presented by the subdivider to determine that the village subdivision regulations and requirements have been considered and are to be provided for in the final plat of a subdivision plan by the subdivider. The Board of Trustees, at its discretion, may recommend approval of the preliminary plat and final plat at the first meeting or it may act at the next regular meeting.

(Ord. 163, passed 10-17-1995; Am. Ord. 205, passed 11-18-03)

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152.27 FINAL PLAT PROCEDURE.

(A) An original plat on tracing cloth in ink (or reproducible Mylar) along with supplemental material shall be furnished to the village by the subdivider. The final plat shall substantially conform to the preliminary plat as approved, including any modifications and conditions specified. It may constitute only that part of the preliminary plat that the developer intends to record and develop at that time. The Planning and Zoning or the Board of Trustees shall approve or disapprove a plat within 35 days of the day of final submission of the plat. If the planning authority or Board of Trustees does not act within 35 days, the plat is deemed to be approved, and upon demand, the village shall issue a certificate approving the plat. The person seeking approval of the plat may waive their requirement and agree to an extension of this time period.

(B) It shall be the subdivider's responsibility to file and record with the County Clerk the final plat.

(C) The subdivider may submit a final plat to the Board of Trustees in lieu of a preliminary plat if it is a resubdivision of a lot in an approved subdivision, within the village limits, provided it does not affect any change of water or sewer lines, streets or easements.

(Ord. 163, passed 10-17-1995; Am. Ord. 217, passed 12-20-2005)

152.28 REVIEW FEES.

A non refundable fee of \$500 for each plat, plus \$50 for each lot in the subdivision, shall be made payable to the village at the time the application and preliminary plat is submitted.

(Ord. 163, passed 10-17-1995)

152.29 SUITABILITY OF LAND.

(A) The subdivider shall give consideration to the preservation of trees, scenic points and other community landmarks.

(B) Subdivisions shall be laid out so as to match existing topography insofar as possible.

(Ord. 163, passed 10-17-1995)

152.30 PLATS AND DATA FOR PRELIMINARY APPROVAL.

(A) The preliminary plat shall be at a scale of one inch equaling 100 feet, and be prepared on 18-inch by 24-inch or 24-inch by 36-inch, sheets of Mylar paper. It shall show existing conditions and all proposals, including the following:

(1) Name of proposed subdivision, name and address of subdivider, agent and principal persons preparing the preliminary plat;

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(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 and descriptions of all monuments found or set;

(4) Plat boundary lines: bearings in degrees, minutes and seconds; distances in feet and hundredths;

(5) Existing conditions of the site and its environs shown on the plat shall include 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 width of paving;

(d) Utilities on and adjacent to the site:

1. Location and size of water wells, water reservoirs, water lines, sanitary and storm sewers; and

2. Location of gas lines, fire hydrants, electric and telephone poles and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the direction, distance and size of nearest lines.

(e) If required by the Board of Trustees, 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 approximately 1%, show contour lines at intervals of not more than one foot and spot elevations at wall breaks in grade along all drainage channels or swales and at selected points not more than 100 feet apart in all directions.

2. For land that slopes more than 1%, show contour lines at five-foot intervals and indicate all swales and drainage channels and all bluffs, rock outcroppings and physical barriers affecting site development.

3. Contour lines and site topography shall extend 50 feet beyond the proposed subdivision boundaries.

(f) Existing storm drainage facilities on and adjacent to the site;

(g) Conditions on adjacent land significantly affecting design of the subdivision: approximate direction and gradients of ground slope, character and location of development and building types;

(h) Zoning on and adjacent to the site;

(i) A statement of ownership, signed by the subdivider; and

(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 and village boundaries;

(7) Proposed lot lines and public right-of-way lines; street names; right-of-way and street widths; indicate roadways intended to be private, rights-of-way for public services or utilities and any limitations thereof;

(8) All lots in any subdivision shall meet the requirements hereof and each lot shall be dimensioned in a manner that setbacks, as required hereby, shall be met for any structure or building that may be or will be constructed on the lot; (No platted lot within a subdivision shall contain less square footage than that required by the zoning ordinance.)

(9) Number or letter to identify each proposed lot and block;

(10) Locations, dimensions, approximate areas and purposes of lots proposed to be reserved for the public; and

(11) Sites and approximate area for any multi-family dwellings or non-residential uses.

(B) A report on the proposed method of installing utilities, street paving, curb and gutter, sidewalks and sewer service shall be prepared and submitted to include the approximate time for accomplishing the improvements. The improvements shall be based on the maximum population density allowed in the zoning district in which the subdivision is located.

(C) Written comments where appropriate from village department (police, fire, water).
(Ord. 163, passed 10-17-1995; Am. Ord. 205, passed 11-18-03)

' 152.31 PLATS AND DATA FOR FINAL APPROVAL.

(A) The final plat shall be drawn in ink on tracing cloth or drafting film such as Mylar or acetate. Drawings shall be on 24-inch by 36-inch sheets and shall be at a scale of one inch equaling 100 feet.

(B) This final plat may be submitted for approval in contiguous section. The final plat shall show:

(1) Title, scale, the north arrow and date of survey;

(2) Plat boundary lines shall be surveyed and shown giving the bearings in degrees, minutes and seconds; (Distances shall be shown in feet and hundredths thereof.)

(3) Location and description of all monuments found or set within the plat area, including bench marks with elevation shown, and property owner;

(4) Zoning or proposed zoning shall be shown with boundaries shown at streets, highways or property lines; (Splitting of lots for zoning purposes shall not be allowed.)

(5) Lot lines and right-of-way lines, existing and proposed; lines to be eliminated shall be dashed; names of streets, right-of-way widths of all streets and alleys; private streets shall be so designated; the radius of all curves; lengths of all tangents on all rights-of-way; accurate dimensions, bearings and deflection angles of all curves;

(6) Location, dimensions, area and purpose of all easements, existing or proposed, and any limitations thereof;

(7) Number or letter to identify each lot and block and the address of each individual lot in accordance with village numbering system, if applicable;

(8) Location, dimensions, area and purposes of lots proposed to be reserved for the public;

(9) Reference to recorded subdivision plats of adjoining platted land by name and date;

(10) Statement that the subdivision is with the free consent and in accordance with the desire of the undersigned owner of the land, acknowledged in a manner required for acknowledgment of deeds;

(11) Signed statements by the subdivider dedicating public rights-of-way and granting all required easements for public use;

(12) Certification and seal by a registered, licensed surveyor of New Mexico in accordance with the laws of the state, certifying the accuracy of the survey and plat, that he or she prepared or supervised preparation of the plat, and that he or she has shown all required easements;

(13) Certification by the village that all streets, curbs, gutters, sidewalks, water, gas, fire hydrants, sewer systems and drainage requirements have been provided, and that the drainage analysis plan has been approved; and

(14) Certification by authorized representatives of the local electric and telephone utilities that their systems' needs have been met.
(Ord. 163, passed 10-17-1995)

' 152.32 ALTERNATE SUMMARY APPROVAL.

(A) (1) When a subdivision consists of no more than two parcels of land or is a replat of a previously filed subdivision which does not increase the total number of lots by more than two lots:

- (a) All resulting lots meet minimum lot size requirements;
- (b) All municipal liens on the subject property have been paid in full;
- (c) No provisions are required for utilities, easements, right-of-way or drainage;
- (d) All owners of the subject property sign the plat and application; and

(e) None of the lots to be affected by the proposed subdivision have been previously subdivided using the summary subdivision procedure.

(2) The Village Planning and Zoning Commission may review and approve the subdivision provided.

(B) The Village Planning and Zoning Commission may also approve replats which decrease the number of lots of contiguous parcels in a previously filed subdivision, provided that street dedication and utility easements remain the same as on the original plat.

(C) Replats submitted for approval by summary procedures shall include releases by the affected utility companies.

(D) The Village Planning and Zoning Commission shall have the authority to determine whether a replat of a previously approved subdivision or a subdivision of two parcels shall be approved by summary procedures.

(E) Any aggrieved person may appeal the decision of the Planning and Zoning Commission to the Board of Trustees for final decision.

(F) In the absence of an appeal, within 20 days of the decision of the Planning and Zoning Commission the decision of the Planning and Zoning Commission shall be final.

(G) The applicant is required to submit to the village the following:

- (1) Completed application form, including waiver of public hearing;
- (2) Base fee of \$100; and
- (3) The original Mylar and five copies of a final plat meeting all the five requirements of ' 152.31.

(H) The Planning and Zoning Commission will make an initial determination of eligibility for summary approval. If the proposal is ineligible, the Planning and Zoning Commission will promptly notify the applicant that the full subdivision procedures is required. If the proposal is facially eligible for summary procedure, the Planning and Zoning Commission will review the plat and the Board of Trustees will act at its regular or special meeting.

(I) By providing for the summary subdivision procedure, the village does not waive its rights to require the applicant to satisfy the village's usual requirements for subdivision approval.

(J) Nothing in this section is intended to limit the availability of the certificate of survey procedure contained in NMSA ' 3-20-2, as amended or superseded from time to time, provided that all applicable requirements are met.

(K) Approval by the village of a summary subdivision application will not relieve the applicant of the requirement of approval by the county for subdivisions within the village's extra-territorial platting jurisdiction. (Ord. 163, passed 10-17-1995; Am. Ord. 190, passed 8-19-1998; Am. Ord. 204, passed 5-20-2003; Am. Ord. 205, passed 11-18-03)

' 152.33 GUARANTEES OF PERFORMANCE.

Before a subdivision plat is placed on the agenda of a Board of Trustees meeting to be considered for a recommendation for final approval, one of the following must be submitted by the subdivider:

(A) A written agreement signed by the subdivider to construct all required improvements after the subdivision receives final approval from the village, but prior to filing and recording the final plat at the County Clerk's Office. The subdivider shall not receive the final plat for filing from the village until all required improvements have been inspected and approved by the Village Engineer or its authorized representative.

(B) If the improvements are not completed by the completion date, the agreement shall be in default and the village may take appropriate action to enforce the agreement. The agreement shall contain, among other provisions, the following:

(1) The subdivider shall make all repairs to his or her construction work and the replacement of defective material or workmanship which may become apparent for a period of three years after work has been completed and accepted by the village.

(2) The subdivider shall agree to supply and install all water lines and sewer lines of approved weight and quality within the subdivision in accordance with village standards, and also outside of the subdivision a sufficient distance to connect with the village's sewer and water system, and to furnish and install approved weight and quality valves, fire hydrants, man-hole rings and covers with sewer stub-outs, defined as y-branch fitting with factory-made clay plug and all appurtenances to the water and sewer systems.

(3) Should the present sewer or water lines leading to the subdivision not be adequate, the subdivider shall agree to bear the cost of additional lines and appurtenances thereto in order to carry the increased load made necessary by the subdivision.

(4) The subdivider shall agree to protect drainage structures, to build bridges, culverts and other drainage facilities in the area that may be necessary to protect the subdivision, the village and other lands in the area from floods because of the development.

(5) The subdivider shall agree to repair all damages to water lines, sewer lines and man-holes at his or her expense.

(6) The subdivider shall agree to retain and pay for the services of a competent registered engineer to inspect all work as the same progresses and make reports to the village; the engineer, paid for by the subdivider, shall be under the direction and control of the village.

(7) Other certificates, affidavits, endorsements or deductions may be required by the Board of Trustees to ensure compliance with these regulations.

(C) In addition to the agreement a form of security shall be filed with the village. The amount of the security must cover the projected cost of all required improvements agreed to by the village. The amount shall be based on the projected costs at the time improvements are scheduled for completion.

(D) The following types of security shall be filed with the village:

(1) *Performance bond.* A surety bond acceptable to the village to cover estimated costs of improvements.

(2) *Escrow account.* An account established with a bank or financial institution in the amount of the projected cost of improvements which can only be drawn upon to cover the costs of improvements.

(3) *Irrevocable standby letter of credit.* Irrevocable authority to draw a draft for the projected cost of improvements.

(a) All security and agreements shall be approved as to form by the Village Attorney prior to submission to the Board of Trustees and shall be submitted with the final plat to the village for approval. After final approval by the village, the agreement establishing the form of security shall be filed with the Village Clerk-Treasurer.

(b) Upon satisfactory completion of the improvements agreed upon, the security and agreement shall be released in writing by the Village Clerk-Treasurer and shall be returned to the developer. (Ord. 163, passed 10-17-1995; Am. Ord. 205, passed 11-18-03; Am. Ord. 217, passed 12-20-2005)

' 152.34 SECURITY AND INDEMNITY AGREEMENT.

(A) Prior to presentation of a final plat to the village, the developer shall indicate whether the method used for completion of improvements will be tentative approval prior to filing the plat or acceptance of a security and indemnity agreement by the village.

(B) (1) During the period of tentative approval, (before completion of improvements and filing of the final plat) if a developer wishes to submit an indemnity agreement and security to the village in order to file the plat, the agreement shall specify the amount of time within which the improvements must be completed.

(2) In no case shall the agreement exceed the 22 months for completion under the tentative approval, but must conform to the date 22 months from village approval of the final plat.

(C) Required elements of an indemnity agreement shall include:

(1) A statement that indemnitor is the developer of the subdivision within the platting jurisdiction of the village and that compliance herewith requires certain guarantees of performance for the development of improvements.

(2) A statement providing for the indemnitor to indemnify the village from any and all costs, damages and legal expenses resulting from the village having to construct improvements in the subdivision, up to a specific dollar amount for all improvements required with final approval of the plat by the village. An accompanying quote or signed contract shall be required.

(3) A statement of the amount of time allowed for the developer to complete the improvements. In no case shall the date exceed 22 months from the date of approval of the final plat by the village. The agreement shall provide that the developer shall be permitted to sell or otherwise dispose of any lot within the subdivision at any time within the 22-month period.

(4) An accompanying letter of credit or irrevocable escrow account instructions or performance bond, to be made a part of the agreement.

(a) The security shall contain specifically named improvements and a description of the method to be used for disbursing funds from the security.

(b) The security shall extend at least 60 days beyond the required date for completion of the improvements.

(5) A statement providing for the remaining funds that have not yet been released for improvements, to be released to the village to the limits of the indemnity agreement, with legal recourse to collect any additional monies expended by the village for completion of the project, should the described improvements not be completed within the time agreed upon.

(D) Upon satisfactory completion of the required improvements and acceptance by the village, the security and indemnity agreement shall be released in writing by the village and shall be returned to the developer. (Ord. 163, passed 10-17-1995)

' 152.35 EXEMPTED SUBDIVISION PROCEDURE.

(A) *Eligibility.* The exempted subdivision procedure may be used provided that:

(1) The division qualifies under one of the seven exemptions listed in the definition of subdivision;

(2) All resulting lots meet the current applicable minimum lot size requirements;

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(3) The payment on all outstanding liens are current;

(4) Upon the transfer of any newly created lot by any method, the outstanding assessment on the lot must be paid in full;

(5) All owners of the subject property sign the plat and application;

(6) The exempted subdivision is within the village or within the extra-territorial platting jurisdiction.

(B) *Verification of exemption.*

(1) Any person claiming entitlement to an exemption under the provisions of this chapter shall file a written claim of exemption on the prescribed form available from the Village Clerk. When there is more than one owner, all owners of record of the property involved shall sign the claim of exemption.

(2) The Planning and Zoning Chairperson shall review the claim of exemption and supporting documents and shall mail written notice of whether the exemption has been approved or denied to the person claiming the exemption within 30 days after receipt of the completed claim of exemption and all required supporting documents. If the proposal is ineligible, the planning authority will promptly notify the applicant that the full subdivision procedure is required. If the proposal is eligible for the exempted procedure the planning authority will forward the exemption to the Mayor for signature.

(3) Approved claims of exemption shall be filed with the Otero County Clerk along with the conveyancing document and/or survey.

(C) Any exempted subdivision that increases the number of lots in the village shall be required to comply with ' 152.52 for each new lot created.

(Ord. 205, passed 11-18-03; Am. Ord. 217, passed 12-20-2005)

DESIGN STANDARDS

' 152.45 STREET LOCATION AND ARRANGEMENT.

(A) The character, extent, width and location of all streets shall conform to the comprehensive plan and policies of the Village Board of Trustees, 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 the streets.

(B) Where an arterial or collector street is not shown in the comprehensive plan and there is not an adopted future street line, the arrangement of streets in a subdivision shall either:

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(1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

(2) Conform to a plan for the neighborhood properly approved by the village to meet a particular situation where topographic or other conditions make continuance or conformance to existing streets impractical. (Ord. 163, passed 10-17-1995)

' 152.46 ALLEY LOCATION.

Alleys shall not be provided where other provision is made for service access such as off-street loading, refuse collection and parking consistent with and adequate for the uses proposed. (Ord. 163, passed 10-17-1995)

' 152.47 STREET AND ALLEY STANDARDS.

(A) If rights-of-way for public streets and alleys are needed, they shall be provided in accordance with the standards and requirements described as follows:

- (1) Major thoroughfare: 60 feet.
- (2) Collector street: 50 feet.
- (3) Minor industrial or commercial street: 50 feet.
- (4) Minor residential street: 40 feet.
- (5) Marginal access street: 40 feet.

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(6) Cul-de-sac: 50 feet radius. Streets which terminate in a cul-de-sac shall be no longer than 500 feet.

(7) Alley: 20 feet.

(8) Bike paths and trails, if provided, shall be as follows:

(a) Right-of-way, minimum: ten feet.

(b) Pavement width, if needed: ten feet.

(B) When rights-of-way are required, as stated herein, the developer may be required to provide curb and gutter on both sides of the street, but no more than 50 feet of paving width.

(C) Street jogs with centerline off-sets of less than 100 feet shall not be permitted.

(D) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any major secondary thoroughfare or arterial street at less than 75 degrees and no collector or minor street at less than 60 degrees.

(E) All naming and numbering of streets shall conform to an existing village plan for naming and numbering. Street names shall be used which will not duplicate or be confused with the names of existing streets. Where a proposed street is to be a continuation of an existing street, the proposed street shall have the name of the existing street. The use of the suffix street, avenue, boulevard, drive, lane, place or court shall not be a distinction sufficient to avoid confusion; therefore, duplicates with different suffixes shall not be used.

(F) Pavement widths shall be measured back-to-back of curbs where curbs are required.

(G) All subdivisions within the corporate limits of the village shall include standard curb and gutter on both sides of the street not closer than 40 feet from the back of one curb to the other with the area between the curbs surfaced with concrete or asphalt meeting the standard specifications of the village unless the Board of Trustees specifically authorizes and approves the subdivision without curb and gutter. Exception to curb and gutter may be waived if there are significant reasons, such as an undue hardship, create a drainage problem, environmentally unfeasible or would not conform to historical or architectural pattern.

(H) All working public ways shall meet or exceed village specifications.

(I) Subdivisions outside the village limits, but within the three-mile platting and planning jurisdiction of the village, will include standard curb, gutter and paving; however, they may be waived under variances of these regulations.

(J) Sidewalks may be required in all subdivisions within the village limits. They shall have a minimum width of four feet and shall be constructed in accordance with standard specifications of the village. Any exception shall require the express approval of the Board of Trustees.

(Ord. 163, passed 10-17-1995)

152.48 UTILITY IMPROVEMENTS.

(A) The subdivider shall be responsible for costs of installing water, gas and sewer lines, if provided, of adequate size to serve the development in accordance with the Uniform Plumbing Code and other standard, as may be set by the village in any particular instance, to conform to the existing water and sewer system, but in no case shall there be less than a six-inch water line, and eight-inch sewer line and a two-inch gas line. Notwithstanding any of the provisions of the Tularosa Code to the contrary, all water lines to be installed in subdivisions within the village shall be made of no other metal, but cast-iron or some other metal which is capable of conducting an electric charge.

(B) All utility improvements shall meet or exceed village specifications. The subdivider of a subdivision within the village limits shall make necessary arrangements to serve each lot with adequate water of the Tularosa water system. Sources and availability of water supply shall be provided when water services cannot be obtained through the Tularosa water system. Any individual or private system installed within the village limits or within the three-mile limit may be required to be compatible with the Tularosa water system.

(C) The subdivider of subdivisions within the village limits shall be responsible for the installation of fire hydrants. Locations shall be approved by the Village Fire Department. Subdivisions outside the corporate limits shall have an approved fire protection plan and provide the necessary fire hydrants or other protective measures deemed necessary.

(D) Subdivisions outside the village limits, but within the planning and platting jurisdiction of the village shall provide an adequate supply of potable water to each lot by a water system approved by the Environmental Improvement Division (EID) with proper provisions for the maintenance thereof, or shall serve each lot with a water main of the village water system. Where it is feasible and practical for an adequate water supply to be made available for every lot by the individual lot owner then to present evidence to this effect and include deed restrictions on the final plat requiring any individual water supply systems to comply with the requirements of the Environmental Improvement Division.

(E) Subdivisions within the corporate limits of the village shall have sewer lines connected to the sanitary sewer lines connected to the sanitary sewer system of the village in accordance with the Uniform Plumbing Code then in effect. Sewer lines shall be accessible to each lot within the subdivision. A proper method of sewage disposal shall, by means of an approved sewage treatment plant, be provided when sewer services cannot be obtained through the Tularosa sewage system. The sewers shall be constructed in accordance with standards established by the Village Board of Trustees.

(F) Subdivisions outside the corporate limits, but within the planning and platting jurisdiction of the village, shall connect to a public sanitary sewer system if feasible. Where lots cannot be connected with a public sewer system, provisions must be made for sanitary sewerage, consisting of a central treatment plant or individual disposal devices for each lot. On lots where individual septic tanks are to be utilized, lots shall not be less than three-fourths of an acre in size, and may have to be larger depending on the soil type. The subdivision plat should include deed restrictions requiring that all such disposal systems shall be constructed in accordance with Environmental Improvement Division standards. Location of septic tanks should take into consideration possibilities of future connections to a community sewer system. No privies or other primitive liquid waste disposal system may a used.

(G) Subdivisions shall base all required utilities on the maximum population density allowed by the zoning district in which the subdivision is located.

(Ord. 163, passed 10-17-1995; Am. Ord. 217, passed 12-20-2005)

' 152.49 PUBLIC SITES AND OPEN SPACES.

Where a proposed park, playground, school or other public use shown in a general community or master plan is located in whole or in part in a proposed subdivision, the Board of Trustees may require the dedication or reservation of the area. However, the subdivider shall not be required to dedicate more than 5% of the total area of the subdivision to the village for public use, exclusive of streets and alleys.

(Ord. 163, passed 10-17-1995)

' 152.50 PUBLIC SITES.

Where deemed essential by the Board of Trustees, upon consideration of the particular type of development proposed in the subdivision, and specifically in large scale neighborhood unit developments, the Board of Trustees may require the dedication or reservation of such other areas or sites of a character, extent and location suitable to the needs created by the development for schools, parks and other neighborhood purposes. If locations for school are set aside in any proposed subdivision, the School Board shall purchase the lands from the subdivider for school purposes where subdivider has already donated 5% of the total area for parks, playgrounds and other public uses.

(Ord. 163, passed 10-17-1995)

' 152.51 MONUMENTS.

(A) Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points.

(B) The monuments shall be made of metal at least one inch in diameter and 30 inches long.

(Ord. 163, passed 10-17-1995)

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' 152.52 WATER RIGHTS.

(A) Any subdivider, prior to the approval of final plat, shall be required to transfer to the village sufficient water rights to serve all lots in the subdivision being presented for approval provided that no water right shall be required for any single lot for which water service from the municipal water system has historically been provided. Provided however, that any individual dividing a single lot into two part within the village limits will not be required to furnish water rights as to the additional lot but this exemption shall only be available once as to the original lot. If, at a later date, this lot is divided again, water rights will have to be given up in accordance with this section, excluding the 49 blocks.

(B) Sufficient water rights shall be defined as the right to divert from either surface or underground sources at least .45 acre feet per annum per lot. Provided that if the subdividers/developers do not have surface or ground water rights, the subdivider/developer will reimburse the village for acquiring water rights and transfer of these water rights for use in the Tularosa Municipal Water System.

(C) The water rights to be acceptable to the village must have been accepted for filing as prima facie evidence of the right with the State Engineer.

(D) The water rights shall be deemed to be acceptable when the State Engineer has recognized or authorized a transfer of the water rights and the place of diversion, change of purpose of use to municipal so that the water rights may be incorporated and used in the municipal water system by diversion from a surface source or a completed functional well for diversion from an underground basin.

(Ord. 169, passed 8-21-1996; Am. Ord. 204, passed 5-14-2003; Am. Ord. 217, passed 12-20-2005)

' 152.99 PENALTY.

(A) In addition to other penalties and remedies provided by law, any owner or agent of the owner, of any land located within the planning and platting jurisdiction of the village who transfers or sells the land prior to approval and recordation of the necessary plat with the County Clerk, as required in these regulations, shall be deemed guilty of a misdemeanor and, upon conviction, shall be penalized in the manner prescribed by law. The description of the land by metes and bounds in the instrument of transferring of land shall not exempt the transaction from the penalties.

(B) Any person who records with the County Clerk any plat in violation of these regulations shall be deemed guilty of a violation of these regulations and state law and, upon conviction, shall be punished by a fine of not less than \$500. Also, all village provided utilities and services shall be withheld or withdrawn until the time as these regulations are complied with, as provided by state law.

(Ord. 163, passed 10-17-1995)

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CHAPTER 153: SIGNS

Section

- 153.01 Purpose
- 153.02 Definitions
- 153.03 Permit required
- 153.04 Design
- 153.05 Size
- 153.06 Location and position
- 153.07 Lighting
- 153.08 Signs not requiring permits
- 153.09 Maintenance
- 153.10 Removal of obsolete business signs
- 153.11 Removal of unlawful signs

' 153.01 PURPOSE.

The purpose of this chapter is to protect and promote the general welfare, health, safety and order within the village through standards, regulations and procedures governing the erection, use and/or display of devices, signs or symbols serving as visual communicative media to persons situated within or upon public rights-of-way or private properties. The regulations set forth on this chapter are intended to preserve the special qualities inherent in the village that attract tourists and residents alike, and that are the basis of the village's economic stability and growth.

(Ord. 226, passed 4-15-2008)

' 153.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MARQUEE SIGN. A movable outdoor sign structure with interchangeable lettering. In some cases marquee signs have internal illumination

MONUMENT SIGN. An outdoor sign attached to the ground atop a low fixed structure less than five feet high, as opposed to a pedestal sign. The supporting structure usually has a footprint greater than the sign itself.

PEDESTAL SIGN. An outdoor sign attached to the ground atop a tall fixed structure of single or multiple posts, as opposed to a monument sign.

SIGN AND ADVERTISING STRUCTURE. Any outdoor sign, display, figure, painting, poster billboard or similar thing designed, intended or used to advertise or inform the public of goods or services sold on premises where the advertising structure is located, or device is attached to, hung from, painted on or displayed in any manner from any building, tree, fence, structure, property or land, intended primarily to attract attention or inform persons not on the premises, except as follows:

- (1) Flags or governmental insignia, excepting when used in commercial displays;
- (2) Embellishment of architectural features of buildings or premises, except letters, animated components, trademarks, moving or apparently moving lights and advertising;
- (3) Illustration of names of occupants, post office box numbers and property numbers where smaller than one square foot;
- (4) Posting, legal notifications, traffic and other directional signs erected or required to be erected by government bodies;
- (5) Private traffic signs bearing no advertising matter; and
- (6) Advertising signage included on a commercial bench permitted on specific locations.
(Ord. 161, passed 5-16-1995; Am. Ord. 226, passed 4-15-2008)

' 153.03 PERMIT REQUIRED.

(A) A sign permit is required for all signs not specifically exempted in ' 153.08. It shall be unlawful for any person to erect within the village any non-exempted sign or other advertising structure without first obtaining a sign permit from the Village Clerk or Deputy, and signing an affidavit stating the individual or business understands and will comply herewith.

(1) The fee for such permit shall be payable at the time of approval as follows: less than nine square feet, \$25; nine square feet or more, \$50.

(2) The applicant is responsible to coordinate with all agencies involved and to obtain all necessary endorsements.

(B) A sign permit shall contain the following:

- (1) Name, address and phone number of applicant;

(2) Name, address, phone number and signature of property owner if different from applicant.

(3) Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected;

(4) Two blueprints or drawings of the plans and specifications to include:

(a) Dimensions (length, height and width);

(b) Material, including lighting, if required;

(c) Location, height and method of attachment to the building or ground;

(d) Any electrical permit required and issued for this sign(s); and

(e) Position of sign in relation to nearby building structures.

(C) The application shall be reviewed by the Chairman of the Planning and Zoning Commission to assure conformance with the current ordinances.

(D) If the application is found to be in conformance, the Planning and Zoning Commission shall endorse approval on the application. Upon payment of the prescribed fee, the Village Clerk or Deputy shall sign and issue the sign permit as the approving authority. A copy of the signed permit issued shall be made part of the consent agenda.

(E) If the application is found to be in nonconformance, the Planning and Zoning Commission shall endorse on the application the reasons the application is not in conformance, return the application to the Village Clerk or Deputy, who shall notify the applicant that no permit can be issued without approval of the Governing Body. If a hearing is necessary, the Village Clerk or Deputy shall notify the applicant of the time and place of the hearing before the Governing Body,

(F) A sign permit shall become null and void:

(1) If the sign for which the permit was issued has not been completed and erected within a period of six months after the date of the permit.

(2) Thirty days after a business closes or ceases to operate if no new business is established at that location. It shall be the responsibility of the owner of the building to see that any sign is removed which pertains to the business that was closed.

(Ord. 161, passed 5-16-1995; Am. Ord. 217, passed 12-20-2005; Am. Ord. 226, passed 4-15-2008) Penalty, see ' 10.99

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' 153.04 DESIGN.

(A) The design of each sign or advertising structure shall conform with the Frontier, Western, Territorial or Spanish style architecture existing in Tularosa.

(B) Sign content shall be limited to business name, operating hours, and product or service information.

(1) Slogans and other subjective content should be avoided.

(2) Monument signs are recommended in place of pedestals wherever lot size and location permit.

(C) Signs may include a wide range of warm colors from matte black to ivory, preferably earth tones to blend with the natural surroundings.

(Ord. 161, passed 5-16-1995; Am. Ord. 226, passed 4-15-2008)

' 153.05 SIZE.

(A) *Allowable amount of signage.* The allowable amount of signage shall be determined by a general formula based on the square footage of the front of the building. Unless otherwise stated, the following standard formula will apply:

Amount of signage (in square feet) = 0.076 x square footage of the front of the building as designated by the owner or leaseholder

(B) *Commercial businesses, all categories.*

(1) The amount of signage shall be computed using the standard formula in division (A). This amount may be used for wall-mounted, freestanding, or a combination of both.

(2) The amount of signage for a business conducted on a property with no permanent structures or structures less than 250 square feet shall be allowed one freestanding sign, based on the linear feet of lot frontage as follows:

Lot Frontage *Sign Area*

<i>(linear feet)</i>	<i>(square feet)</i>
0-150	3264100
151-300	
301-600	

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(3) Lots in excess of 600 linear feet shall be allowed two freestanding signs, provided they are separated by a minimum distance of 300 feet.

(C) *Buildings with multiple tenants.*

(1) In the case of more than one business located within one building (but less than four businesses), the total amount of signage square footage for all business within the building shall not exceed the amount allowed by the standard formula in division (A) above.

(2) The owner of the building shall determine the percentage of the total allowable sign size which each business within the building is allowed.

(D) *Shopping centers.*

(1) To be designated a shopping center, four or more shops or businesses must be on the premises. Shopping centers may be comprised of one or more tracts or ownerships maintaining a center identity under written agreement.

(2) A shopping center is allowed one freestanding sign for the purpose of identifying the center and the businesses therein.

(a) The size of the freestanding sign shall be computed from the formula of one square foot of sign space per each linear foot of the designated front of the property, with a maximum of 200 feet allowed.

(b) At least 50% of the center sign shall designate the shopping center, and the remaining shall or may be used for riders to advertise the individual businesses within the center.

(3) A center is also allowed wall-mounted signs using the standard formula in division (A) above.

(4) A temporary freestanding site sign may be allowed for a business within a center prior to the erection of a center sign. These signs must be joint signs with other businesses within the center, and shall be removed within 30 days following construction of the center sign.

(E) *Service station canopy signs.*

(1) The area allowable for freestanding canopies over service station service islands or like installations shall be calculated based on 1.5 times the horizontal plane of the canopy structure times 0.076.

(2) Not less than 25% of the allowable sign area shall be on the canopy facade.

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(3) The allowable area for canopy signs shall be in addition to allowable sign area for other structures on the premises

(Ord. 161, passed 5-16-1995; Am. Ord. 204, passed 5-14-2003; Am. Ord. 226, passed 4-15-2008)

' 153.06 LOCATION AND POSITION.

(A) A wall sign must be within the silhouette of the building to which it is attached.

(B) A freestanding sign shall not exceed the business building height, and no sign shall be located in such a way as to restrict driver or pedestrian visibility on any adjacent streets or sidewalks.

(C) No sign shall be located within five feet of a highway right-of-way.

(D) No freestanding signs shall be erected or maintained off the premises of the advertised business. (Ord. 161, passed 5-16-1995; Am. Ord. 226, passed 4-15-2008) Penalty, see ' 10.99

' 153.07 LIGHTING.

(A) Light from any source intended to illuminate a sign shall be shaded, shielded or directed in such a way so that the light intensity or brightness shall not adversely affect the safe vision of pedestrians or vehicle operators on public or private streets, driveways, or parking areas, and shall not adversely affect any surrounding premises.

(B) No flashing or moving forms of illumination or electronically controlled displays are permitted, and no portable marquee signs are permitted.

(C) No exposed neon will be used or erected in any outdoor sign. (Ord. 161, passed 5-16-1995; Am. Ord. 226, passed 4-15-2008) Penalty, see ' 10.99

' 153.08 SIGNS NOT REQUIRING PERMITS.

(A) Special political signs on private property shall be allowed, up to a total area of six square feet per sign for each premise in a residential zone, and up to 32 square feet in a nonresidential zone.

(1) Such signs may be erected no earlier than 45 days prior to any primary election, general election or municipal election.

(2) Such signs must be removed within ten days after the election to which the sign pertains or the termination of a candidacy.

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(B) One construction sign, not to exceed 32 square feet, shall be allowed for all building contractors, one for all professional firms and one for all lending institutions on premises under construction, for a total not to exceed three signs. All signs shall be removed within 14 days of the beginning of the intended use of the project.

(C) Real estate signs are allowed as follows, when located on property for sale, rent or lease:

(1) One temporary real estate sign located on the property for each street frontage of developed premises or undeveloped lot of less than two acres.

(a) In residential zones, signs shall not exceed six square feet.

(b) In nonresidential zones, signs shall not exceed eight square feet on improved lots, and 16 square feet on unimproved lots.

(2) One temporary real estate sign, not exceeding 16 square feet, shall be allowed for each lot of two acres or more. If the lot has multiple frontages, one additional sign, not exceeding 16 square feet, shall be allowed, for a maximum of two sign units in the lot.

(3) All signs shall be removed within 14 days of sale or completed leasing.

(4) Real estate signs shall not exceed five feet in height.

(D) *Banners, placards, or temporary signs.*

(1) Banners, tent placards or signs of a temporary nature shall be allowed for a period not to exceed 14 days in any one quarter of a calendar year, unless additional days are approved by the Governing Body, in which case the owner shall apply for a sign permit.

(2) Banners, tent placards or signs of a temporary nature must be clear of sidewalk access.
(Ord. 226, passed 4-15-2008)

' 153.09 MAINTENANCE.

(A) All signs will be kept in good repair and painted or maintained in an appropriate and safe manner.

(B) (1) Any sign deemed in disrepair by the Governing Body or its designated representative will be considered to be nonconforming to this chapter.

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(2) After receipt of a written notice, the owner will make the necessary repairs or remove the sign within 30 days of the notice.

(Ord. 161, passed 5-16-1995; Am. Ord. 226, passed 4-15-2008) Penalty, see ' 10.99

' 153.10 REMOVAL OF OBSOLETE BUSINESS SIGNS.

(A) Any sign now or hereafter existing, along with its supports, which no longer advertises a bona fide business conducted or a product sold on the premises, shall be taken down or removed by the owner, agent or person having the beneficial use of the building or structure or land upon which the sign may be found, within ten days after written notice from the village.

(B) For failure to comply with the notice within the time specified in the order, the village is hereby authorized to cause removal of the sign, and any expense incident thereto shall be paid by the owner of the building or structure to which the sign is attached.

(Ord. 161, passed 5-16-1995; Am. Ord. 226, passed 4-15-2008) Penalty, see ' 10.99

' 153.11 REMOVAL OF UNLAWFUL SIGNS.

(A) Any sign existing prior to the effective date of this chapter, for which the necessary approval and sign permit was not obtained pursuant to the provisions of any previous code, shall continue to be illegal and shall be removed or brought into conformance with this chapter.

(B) Further, the owner thereof shall continue to be liable for the penalties described in ' 10.99 (Ord. 226, passed 4-15-2008)

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CHAPTER 154: ZONING

Section

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GENERAL PROVISIONS

' 154.01 TITLE AND PURPOSE.

(A) This chapter shall be known, referred to and recited as the Comprehensive Zoning Law of the village.

(B) The official zoning plan for the village is hereby established and adopted to serve the public health, safety and general welfare of the community and to provide the economic and social advantages resulting from an orderly planned use of land resources.

(Am. Ord. 203, passed 4-15-2003; Am. Ord. 204, passed 5-20-2003)

' 154.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A subordinate building, attached to or detached from the main building, the use of which is incidental to that of the main building and not used as a place of habitation.

APARTMENT HOUSE. A building designed or used for three or more dwelling units, with separate housekeeping and cooking facilities for each unit.

BED AND BREAKFAST. A building within which temporary lodging with meals is provided for compensation.

BOARDINGHOUSE. A building containing not more than 15 rooms with sleeping facilities where meals or lodging and meals are provided for compensation and by previous arrangement to three or more persons, but not exceeding 20 persons.

BUILDING, HEIGHT OF. The vertical distance from the grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

BUILDING, MAIN. The building occupied by the primary use.

BUILDING SITE. The ground area for a building or structure together with all yards and open space.

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CARPOR. A canopy or shed open on two or more sides and attached to the main building, for the purpose of providing shelter for one or more vehicles.

CHILD CARE FACILITY. The use of a structure or portion thereof for the care of three or more children for compensation. Includes nursery, day care center, kindergarten.

CLEAR SIGHT TRIANGLE. An area of unobstructed vision at street intersections which allows a vehicle driver to see approaching vehicles. Nothing is permitted more than three feet high measured from street curb point or edge of street to obstruct a sight line which shall be the front street and side street lines of a corner lot and a line connecting points 30 feet distance from the intersection of the property line of such lot.

CLINIC. A building or portion thereof designed for, constructed or under construction or alteration for or used by two or more physicians, surgeons, dentists, psychiatrists, physiotherapists or practitioners in related specialties or a combination of persons in these professions.

DWELLING UNIT, SINGLE FAMILY. One or more connected rooms and a single kitchen designed as a unit for occupancy by one family for living and sleeping purposes, but not including a recreation vehicle or travel trailer, permanently installed on a permanent foundation and consistent with applicable aesthetics standards which may be adopted by village ordinance, which has received a permit from the village or another permitting agency with jurisdiction, and the structure is either:

(1) Constructed to the standards adopted by the village and other technical codes, as of the date of the unit's construction; or

(2) A multi-section manufactured home with a manufacture date not earlier than 12 years prior to the current date when application is made to erect the structure.

FAMILY.

(1) One or more persons who are related by blood or marriage living together and occupying a single housekeeping unit with single culinary facilities, or a group of not more than four persons living together by joint agreement and occupying a single housekeeping unit with single culinary facilities on a non-profit, cost sharing basis.

(2) The usual domestic servants residing on the premises shall be considered as part of the ***FAMILY.***

FILLING STATION. Any building or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, lubricants or tires, and indoor car washing, minor motor adjustments and flat tire repair when incidental to the conduct of a filling station.

GRADE. The elevation of the ground at a building or building site.

GUEST HOUSE. An attached or detached unit used as an accessory building to the primary single family home and not rented or otherwise conducted as a business. A **GUEST HOUSE** shall not exceed 600 square feet outside dimensions.

HOME OCCUPATION. A professional occupation conducted in dwellings and apartments, including that of a physician, surgeon, dentist, lawyer, clergyperson or other similar professional person and dressmaking or tailoring; provided no person shall engage in such professional occupation, dressmaking or tailoring, other than those who reside on the premises; and provided further that in no case shall more than 25% of the floor area of any dwelling, exclusive of any accessory building, be used for any one or more of the said occupations; and provided that no **HOME OCCUPATION** shall be permitted in an accessory building; and provided further that no windows or other display or sign be used to advertise such occupancy other than single sign not more than 8 inches in width and 36 inches in length.

HOTEL. A building used as an abiding place of more than 15 persons who for compensation are lodged with or without meals and in which no provision is made for cooking in any individual room or suite and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours.

INSTITUTION. A building or group of buildings designed or used for non-profit, charitable or public service purposes of providing board, lodging and health care for persons aged, indigent or infirm, or a building or group of buildings for the purpose of performing educational or religious services and offering board and lodging to persons enrolled for training.

LODGING HOUSE. A building containing not more than 15 rooms with sleeping facilities where lodging only is provided for compensation and by previous arrangement to three or more persons but not exceeding 15 persons.

LOT. A parcel of land occupied or which may be hereinafter occupied by a building and its accessory buildings, together with such open spaces and parking spaces as are required under this chapter and having its principal frontage upon an officially approved street or place, or upon a park or parkway provided such parcel of land abuts also on a street or place.

- (1) **LOT, CORNER.** A lot abutting upon two or more streets at their intersection.
- (2) **LOT, DEPTH OF.** The average horizontal distance between the front and rear lot lines.
- (3) **LOT, WIDTH OF.** The average horizontal distance between the side lot lines.

(4) ***LOT, THROUGH.*** A lot having a frontage on two approximately parallel streets or places.

LOT OF RECORD. A lot which is part of a subdivision, the map of which has been recorded in the office of the Otero County Clerk; or a parcel of land which became legally established and defined by deed or contract on or before the effective date of this chapter.

MOBILE HOME. A movable or portable housing structure larger than 40 feet in body length, 8 feet in width or 11 feet in overall height, designed for and occupied by no more than one family for living and sleeping purposes that is not constructed to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code, as amended to the date of the unit's construction or built to the standards of any municipal building code.

MODULAR HOME. A pre-manufactured structure as defined in NMSA ' 3-21A-2, as amended from time to time. ***MODULAR HOMES*** must meet UBC standards and be listed as approved by the New Mexico State Construction Industries Division. (See list of current approved manufacturers in the village office.)

MULTI-SECTION MANUFACTURED HOME. A manufactured home that is a single family dwelling with a heated area of at least 36 by 24 feet and at least 864 square feet, and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations.

NONCONFORMING USE. A building or land which does not conform with the height, area or use regulations of the district in which it is located.

NURSING or CONVALESCENT HOME. A building designed or used in whole or in part for the care of ill, senile or otherwise infirm persons residing on the premises.

PARKING SPACE. An impervious, hard-surfaced area enclosed in the main building or in an accessory building or unenclosed, having an area of not less than 160 square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street, place or alley by an impervious hard-surfaced driveway at least eight feet in width which affords unobstructed ingress and egress for automobiles.

RECREATIONAL VEHICLE PARK. A site zoned to provide temporary parking for recreational vehicles.

RECREATIONAL VEHICLES (RVs). Self-contained dwelling units, factory built and assembled, designed for conveyance on their own wheels, designed and constructed especially for short-term occupancy and including vehicles commonly referred to as motor homes, pick-up campers and small trailers, not to exceed 44 feet in length.

STRUCTURAL ALTERATION. Any change in the supporting members of the building, such as in a bearing wall, column, beam or girder, floor or ceiling joist, roof, rafter, foundation, pile or retaining wall or similar components, or in any building line of the building.

STRUCTURE. Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground.

STRUCTURE, MAIN. A building within which is conducted the principal use of the property.

USE, PERMITTED. A principal allowed use, an accessory use, or a special use specifically allowed.

USE, PROHIBITED. A use which is not specifically allowed.

YARD, FRONT. A yard between the front line of a building and the front lot line.

YARD, REAR. A yard between the extreme rear line of a building and the rear lot line.

YARD, SIDE. A yard between the side lot line and the nearest part of the main building.

(Am. Ord. 203, passed 4-15-2003; Am. Ord. 204, passed 5-20-2003; Am. Ord. 209, passed 1-20-04)

COMPREHENSIVE ZONING REGULATIONS AND STANDARDS

' 154.15 GENERAL REGULATIONS.

(A) *Establishment of districts.* In order to regulate and restrict the location and use of buildings and land for trade, industry, residence and other purposes, to regulate and restrict the height and size of the buildings hereafter erected or structurally altered, the size of yard and other open spaces and the density of population, the village is hereby divided into the following zones:

- (1) RA Residential/Agricultural (former AA Suburban);
- (2) R-1 Single Family Residential (former A);

- (3) R-2 Multiple Family Residential (former B);
- (4) R-MH Mobile Home Residential (former E Trailer);
- (5) HR Historical Residential;
- (6) C Commercial;
- (7) HC Historical Commercial;
- (8) D Industrial.

(B) *Boundaries of zones.*

(1) The boundaries of the zones are shown on the map entitled Village of Tularosa Zoning District Map, the original of which is on file with the Clerk of the village and this map, together with all the notations, references and other information shown thereon, is hereby adopted and made a part of this chapter, and has the same force and effect as if it were fully set forth or described herein.

(2) The boundaries of the above-mentioned zones, as set out on the zoning map, are hereby described as follows:

(a) *Class RA Residential/Agricultural.*

1. All that area within the following described boundaries: beginning at a point on the west right-of-way line of Highway 54, 525 feet north of the north right-of-way line of Alamo Street; thence in a westerly direction perpendicular with Highway 54, a distance of 150 feet; thence in a northerly direction parallel to Highway 54 to the north corporate limits; thence east along the corporate limits to Highway 54; thence in a southerly direction along the west right-of-way line of Highway 54 to the point of beginning.

2. Also that area within the following described boundaries: beginning at a point on U. S. Highway 54, which is in direct line with the north side of an alley in the Sierra Terraces Subdivision, running east and west; thence in a northerly direction along the east right-of way line of Highway 54 to the north corporate limits; a distance of 150 feet; thence in a southerly direction parallel to Highway 54 to the point of beginning.

(b) *Class R-1 Single Family Residential.* All of that area within the corporate limits of the village left in black or white on the zoning map and not otherwise included in the description of any other district.

(c) *Class R-2 Multiple Family Residential.* All of that area with the corporate limits of the village marked in blue on the zoning map.

(d) *Class R-MH Mobile Home Residential.* All of that area within the following described boundaries:

1. That land bounded by Central Avenue on the north, Bookout Road on the east, Padilla Lane on the south, and a line 250 feet east of and parallel to First Street on the west.

2. That land bounded by West Fourth Street on the north, La Luz Avenue on the east, West First Street on the south and the city limits on the west.

3. That land bounded by Higuera Street on the north, First Street on the east, Darby Lane on the South and U.S. Highway 54-70 on the west.

(e) *Class HR Historical Residential.* All of that area within the following described boundaries: beginning at a point at the intersection of Higuera and Eighth Street, thence in a northerly direction along Eighth Street to Alamo Street, thence in an easterly direction to First Street, thence in a southerly direction to Higuera Street, thence westerly along Higuera Street to the point of beginning, except for that area described below as HC Historical Commercial.

(f) *Class HC Historical Commercial.* All of that area within the corporate limits of the village described as follows:

1. Beginning at the west right-of-way line of Highway 54-70 and Higuera Street, thence in a westerly direction to Fifth Street; thence in a northerly direction along Fifth Street to Encino Street; thence in an easterly direction along Encino Street to a point 150 feet west of the west right-of-way line of Highway 54-70; thence in a northerly direction parallel to Highway 54-70 to Alamo Street, thence east to the west right-of-way line of Highway 54; thence in a southerly direction along Highway 54 to the point of beginning.

2. Also that area beginning at the east line of Highway 54-70 and Higuera Street; thence east to Second Street; thence north to Fresno Street; thence west to Third Street; thence north to Encino Street; thence westerly along Encino Street to a point 150 feet east of the east right-of-way line of Highway 54-70 to the north side of Alamo Street; thence in a southerly direction along Highway 54-70 to the point of beginning.

(g) *Class C Commercial.* All of that area within the corporate limits of the village described as follows:

1. Beginning at east right-of-way line of Highway 54 and 70 at the southern corporate limits of the village; thence westerly along said corporate limits, a distance of 160 feet; thence in a northerly direction parallel to the west right-of-way line of Highway 54 and 70 to Higuera Street; thence east to the west right-of-way line of Highway 54-70; thence in a southerly direction along Highway 54-70 to the point of beginning.

2. Also that area beginning at the west right-of-way line of Highway 54-70 and Alamo Street, thence in a westerly direction along Alamo Street to a point 150 feet west of the west right-of-way line of Highway 54-70; thence in a northerly direction parallel to Highway 54 a distance of 525 feet from the north side of Alamo Street; thence east to the west right-of-way line of Highway 54; thence in a southerly direction along Highway 54 to the point of beginning.

3. Also that area within the following described boundaries: beginning at the east line of Highway 54-70 at the southern corporate limits of the village, thence easterly along the corporate limits a distance of 160 feet; thence in a northerly direction parallel to Highway 54-70 to Higuera Street; thence in a southerly direction along Highway 54-70 to the point of beginning.

4. Also that area within the following described boundaries: beginning at the right-of-way line of Highway 54 and 70 and the north side of Alamo Street; thence easterly along the north side of Alamo Street to the west side of First Street; thence in an easterly direction to an alley running east and west in the Baldwin Subdivision; thence along the alley to Bookout Road; thence south perpendicular to Highway 70 to a point which is 150 feet south of the south right-of-way line of Highway 70; thence easterly parallel to Highway 70 to the east corporate limits; thence north to the south right-of-way line of Highway 70, thence in a westerly direction along the right-of-way line to a point of beginning.

5. Along the area within the following described boundaries to wit: beginning at point on the north right-of-way line of Highway 70 which is the southeast corner of the Tularosa Gardens Subdivision; thence north along the east boundary of the subdivision to the south side of an alley, which is 90 feet from said right-of-way line; thence in a westerly direction along the south side of said alley to the west boundary of the Tularosa Gardens Subdivision; thence north along the boundary to a point 150 feet from the north right-of-way line of Highway 70; thence in a westerly direction parallel to the east boundary of the Sierra Terraces Subdivision, located 68.7 feet north of the north right-of-way line of Highway 70; thence north to the north side of the alley; thence west to Highway 54; thence in an easterly direction along the right-of-way line of Highway 70 to the point of beginning.

6. Also that certain tract of land in the form of a triangle at the intersection of Highways 54 and 70, as shown on the Zoning District Map.

7. Also that tract of land designated as Hortaliza 103 on the map of the Tularosa Townsite filed in 1885 in the Office of the Probate Court in Dona Ana County, New Mexico, a copy of which is on file in the office of the Otero County Clerk.

(h) *Class D Industrial.* All of that area within the following described boundaries:

1. A strip of land 150 feet in width on the east and west side of the right-of-way line of the Southern Pacific Railroad beginning at the southern corporate limits and proceeding in a northerly direction for the north corporate limits.

2. Also the area within the following described boundaries to wit: all of Hortaliza 103 and the west two-thirds of Hortaliza No 37 of the Townsite of Tularosa, as the same is shown on the map of Probate Court in Dona Ana County, New Mexico, a copy of which is on file in the Office of the Otero County Clerk.

(3) In cases where zone boundaries, as shown on the map, do not coincide or approximately coincide with street lines, alley lines or lot lines, and no dimensions are shown, or set forth herein, the location of the zone boundary lines shall be determined by the use of the scale appearing on the map.

(C) *Vacation of streets.* Whenever any street, alley or other public way is vacated by official action of the Board of Trustees, the zoning district adjoining each side of the street, alley or public way shall be automatically extended to the center of same, and all area included therein shall then henceforth be subject to all appropriate regulations of the extended zones.

(D) *Used allowed; exceptions.* No building or land shall hereinafter be used and no building or part thereof shall be erected, reconstructed, converted, moved or structurally altered unless in conformity with the regulations as set forth in this chapter, with the exception of legal nonconforming buildings destroyed by fire, storm or other act of God or the public enemy; provided the restoration is accomplished with no increase in cubical content and no increase in floor area over the buildings existing immediately prior to damages.

(E) *Location of buildings.* Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot in conformance with applicable setback requirements provided in this chapter and, in no case, shall there be more than one main building on one lot.

(F) *Reduction in area.* No lot shall be reduced in area so that yards, lot area per family or other open space requirements of this chapter are not maintained. Minimum yards, parking and other open spaces, including lot area per family required for a permitted use, shall not be considered as yard or open space requirements for any use occupying another lot.

(G) *Interpretation, purpose and conflict.* In interpreting and applying the provisions of this chapter, these shall be held to be the minimum requirements for the promotion of the public safety, health,

convenience, comfort, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any ordinances, rules, regulations or permits previously adopted or issued; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or requires larger open spaces or larger lots that are imposed or required by such ordinances or agreements, the provisions of this chapter shall control.

(Am. Ord. 204, passed 5-20-2003)

' 154.16 RA RESIDENTIAL/AGRICULTURAL ZONE.

(A) *Purpose.* This zone is intended to encourage a suitable environment for single family residential use in large parcels of land on the periphery of the built up portions of the village and to provide a low density of population.

(B) *Uses.* A building or land shall be used only for the following purposes:

- (1) Farming, including the usual farm buildings and structures, animal raising;
- (2) Truck and flower gardening, nurseries and greenhouses;
- (3) One single family dwelling unit per lot;
- (4) Churches and temples;
- (5) Public or private elementary and high schools and public and private nursery schools and kindergartens;
- (6) Public and private conservation projects;
- (7) Public parks, parkways and playgrounds;
- (8) Private clubs and recreational uses, except commercial amusement enterprises operated for private profit;
- (9) Temporary, unenclosed roadside stands offering for sale only farm or truck garden produce which are produced on the premises;
- (10) Institutions of an educational, religious, charitable, philanthropic or similar nature;
- (11) Home occupations;

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(12) Accessory buildings and use customarily incidental to any of the above uses; and

(13) Bulletin boards for churches, institutions or public building and signs not exceeding 12 square feet in area, pertaining to the lease, hire of or sale or use of a building or premises; provided, however, that not more than one sign of the above character shall be permitted and shall be so located as to cause no traffic hazard.

(C) *Setback, area, and height restrictions.*

(1) The minimum front yard setback shall be 25 feet;

(2) The minimum side yard setback shall be five feet along each side lot line. The side lot on the street side of a corner lot shall be not less than 122 feet;

(3) The minimum rear yard setback shall be 15 feet;

(4) The minimum lot size per single family dwelling shall be 6,000 square feet;

(5) No building shall exceed 35 feet in height.

(D) *Area regulations.*

(1) Side yard. There shall be two side yards, one on each side of the buildings, having a combined width of not less than 25% of the width of the lot, provided that, in no case, shall either side yard be less than five feet and provided further, that the combined width of the two side yards need not exceed 21 feet.

(2) Rear yard. There shall be a rear yard having a depth of not less than 15 feet.

(3) Lot area per family. Every lot or tract of land upon which a dwelling is erected shall have an area of not less than 6,000 square feet per family; provided, however, that a single-family dwelling may be constructed upon any lot of record existing at the time of adoption of this chapter.

(Am. Ord. 204, passed 5-20-2003; Am. Ord. 209, passed 1-20-04)

' 154.17 R-1 SINGLE FAMILY RESIDENTIAL

(A) *Permitted uses.* A building, not including a trailer, or land shall be used for the following purposes:

(1) One single-family dwelling per lot;

- (2) Parks, playgrounds and community buildings owned or operated by city, state or federal agencies;
- (3) Public libraries and museums;
- (4) Public or private elementary and high schools and public or private nursery schools or kindergartens;
- (5) Private recreational uses, such as tennis courts, swimming pools, operated exclusively for private use and not for commercial purposes;
- (6) Churches and temples;
- (7) Home occupations; and
- (8) Accessory buildings including private garages and uses customarily incidental to any of the above uses, when located on the same lot and not involving the conduct of a business.

(B) *Setback, area, and height restrictions.*

- (1) The minimum front yard setback shall be 25 feet;
 - (2) The minimum side yard setback shall be five feet along each side lot line. The side lot on the street side of a corner lot shall be not less than 122 feet;
 - (3) The minimum rear yard setback shall be 15 feet;
 - (4) The minimum lot size per single family dwelling unit shall be 6,000 square feet;
 - (5) No building shall exceed 35 feet in height.
- (Am. Ord. 204, passed 5-20-2003; Am. Ord. 209, passed 1-20-04)

' 154.18 R-2 MULTIPLE FAMILY RESIDENTIAL.

- (A) *Permitted uses.* A building or land shall be used only for the following purposes:

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- (1) Any use permitted in R-1 Single Family Residential;
- (2) Boarding houses and lodging houses;
- (3) Home occupations, provided that professional persons engaging in the home occupations may employ not more than two assistants;
- (4) Institutions of a religious, educational, eleemosynary or philanthropic nature. but not penal or mental institutions;
- (5) Multiple family dwellings;
- (6) Private clubs and lodges, excepting those the chief activity of which is a service customarily carried on as a business;
- (7) Private schools offering instruction in accounting, secretarial work, business administration, the fine or illustrative arts and similar subjects, except that no dancing, music or trade schools shall be permitted;
- (8) Nursing and convalescent homes;
- (9) Signs not exceeding six square feet in area of a permanent character and pertaining to the offering for rent of rooms in the main buildings;
- (10) Tourist homes; and
- (11) Accessory buildings and uses customarily incidental to any of the above uses when located on the same and not involving the conduct of a business, including storage garages where the lot is occupied by a multiple dwelling, apartment hotel, club, hospital or institutional building.

(B) *Setback, area, and height restrictions.*

- (1) The minimum front yard setback shall be 25 feet; on through lots the required yard shall be on both streets;
- (2) The minimum side yard setback shall be five feet along each side lot line. The side lot on the street side of a corner lot shall be not less than 122 feet;
- (3) The minimum rear yard setback shall be 15 feet;
- (4) The minimum lot size per single family or multiple family dwelling shall be 6,000 square feet;

(5) No building shall exceed 35 feet in height.
(Am. Ord. 204, passed 5-20-2003)

' **154.19 R-MH MOBILE HOME RESIDENTIAL**

(A) *Permitted uses.*

- (1) Any use permitted in R-1 Single Family Residential;
- (2) Permanently placed mobile homes;
- (3) Mobile home parks.

(B) *Setback, area, and height restrictions.*

- (1) The minimum front yard setback shall be 25 feet;
- (2) The minimum side yard setback shall be five feet along each side lot line. The side lot on the street side of a corner lot shall be not less than 122 feet;
- (3) The minimum rear yard setback shall be 15 feet;
- (4) The minimum lot or tract size per mobile home unit shall be 6,000 square feet. In any mobile home park the minimum lot or tract size per mobile home space shall be not less than 4,000 feet;
- (5) No building shall exceed 15 feet in height.
(Am. Ord. 204, passed 5-20-2003)

' **154.20 HR HISTORICAL RESIDENTIAL.**

(A) *Purpose.*

(1) This zone and the Historical Commercial Zone are established to encompass the Forty Nine Blocks Historical District.

(B) *Permitted uses.*

- (1) Any use permitted in R-1 Single Family Residential.

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(C) *Setback, area, and height restrictions.*

- (1) The minimum front yard setback shall be 25 feet;
 - (2) The minimum side yard setback shall be five feet along each side lot line. The side lot on the street side of a corner lot shall be not less than 122 feet;
 - (3) The minimum rear yard setback shall be 15 feet;
 - (4) The minimum lot or tract size per mobile home unit shall be 6,000 square feet;
 - (5) No building shall exceed 35 feet in height.
- (Am. Ord. 204, passed 5-20-2003)

' 154.21 C COMMERCIAL.

(A) *Permitted uses.* A building on land shall be used only for the following purpose:

- (1) Any use permitted in R-2 Multiple Family Residential;
- (2) Amusement places of theaters, except open air and drive-in theaters;
- (3) Auto sales rooms;
- (4) Auto service and repair establishments, subject to regulations in Chapter 93;
- (5) Banks;
- (6) Barber shops, beauty parlors, massage or similar personal service shops;
- (7) Clinics;
- (8) Custom dressmaking, millinery, tailoring or similar retail trade employing not more than five persons on the premises;
- (9) Service stations;
- (10) Storage units;
- (11) General retail service and repair establishments similar to those enumerated in this chapter

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but employing not more than ten persons on the premises, exclusive of drivers or employees who spend the greater part of their working time away from the premises;

(12) Hospitals;

(13) Hospitals or clinics for animals, except that no open kennels shall be maintained on the premises;

(14) Hotels;

(15) Laundries employing not more than five persons exclusive of drivers or other employees who spend the greater part of their working time away from the premises;

(16) Laundromats;

(17) Laundry and dry cleaning establishments (combined operation) employing not more than ten persons exclusive of drivers or other employees who spend the greater part of their working time away from the premises;

(18) Locksmith shops;

(19) Medical and dental clinics;

(20) Messenger and telegraph service stations;

(21) Milk distributing stations, but not involving any bottling on the premises;

(22) Nursing and convalescent homes;

(23) Offices of physicians, surgeons, dentists, psychiatrists, physiotherapists, lawyers, accountants, engineers and other professional uses;

(24) Parking spaces and lots for parking automobiles;

(25) Pharmacies, drugstores, restaurants, flower shops and retail stores;

(26) Photographers studios;

(27) Plumbing shops;

(28) Printing shops;

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(29) Restaurants;

(30) Shoe repairing shops, employing not more than five persons on the premises exclusive of drivers or other employees who spend the greater part of their working time away from the premises;

(31) Shops for the repair of electrical and radio equipment and other similar commodities, employing not more than five persons on the premises, exclusive of drivers or employees who spend the greater part of their working time away from the premises;

(32) Stores or shops for the conduct of a retail business;

(33) Tinsmithing shops employing not more than five persons, exclusive of drivers or other employees who spend the greater part of their working time away from the premises;

(34) RV Parks;

(35) Undertaking establishments;

(36) Used car sales lots, provided the lots shall not be used to store wrecked automobiles;

(37) Accessory buildings and uses customarily incidental to the above listed uses, including sign or bulletin board relating only to services, articles and products offered within the building to which the sign is attached;

(38) The property line of an adult book store shall not be located within 300 feet of the property line of a school or church.

(B) *Setback, area, and height restrictions.*

(1) Setback, area and height regulations for dwelling units are the same as in R-2 Multiple Family Residential;

(2) No front yard is required;

(3) The minimum side yard setback shall be five feet along each side lot line. The side lot on the street of a corner lot shall be not less than 122 feet;

(4) No rear yard is required, except where a lot abuts upon a dwelling district, in which case there shall be a rear yard or not less than 15 feet;

(5) Any building used primarily for the previously enumerated uses may not have more than 25% of the door area devoted to storage purposes incidental to the primary uses;

(6) No building shall exceed 35 feet in height.

(Am. Ord. 204, passed 5-20-2003; Am. Ord. 217, passed 12-20-2005)

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154.22 HC HISTORICAL COMMERCIAL

(A) *Purpose.* This zone is established to recognize the commercial section of the Forty Nine Blocks Historical District.

(B) *Permitted uses.* Any uses permitted in C Commercial, provided that any outdoor (outside of a closed structure) display of inventory or merchandise, other than motor vehicles or trailers as defined in the uniform traffic ordinance, shall only be permitted between 8:00 a.m. and 8:00 p.m. daily.

(C) *Setback, area, and height restrictions.*

(1) Setback, area and height regulations for dwelling units are the same as in R-2 Multiple Family Residential;

(2) No front yard is required;

(3) The minimum side yard setback shall be five feet along each side lot line. The side lot on the street side of a corner lot shall be not less than 122 feet;

(4) No rear yard is required, except where a lot abuts upon a dwelling district, in which case there shall be a rear yard or not less than 15 feet;

(5) Any building used primarily for the previously enumerated uses may not have more than 25% of the floor area devoted to storage purposes incidental to the primary uses;

(6) No building shall exceed 35 feet in height.

(Am. Ord. 204, passed 5-20-2003; Am. Ord. 245, passed 2-13-2013)

154.23 D INDUSTRIAL

(A) *Permitted uses.* A building or land may be used for any purpose not in conflict with any ordinance of the village pertaining to nuisances as defined by statute or the common law, provided that no building or occupancy permit shall be issued for any of the following uses unless and until the location of the use shall have been approved by the Board of Trustees of the village:

(1) Acid manufacture;

(2) Fertilizer manufacture;

(3) Fireworks or explosives, manufacture or storage;

(4) Garbage, offal or dead animals, reduction or dumping;

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- (5) Gas manufacture;
- (6) Petroleum, refining or wholesale storage;
- (7) Stock yards or slaughter of animals;
- (8) Tanning or curing or storage of raw hides and skins; and

(9) Wrecking, dismantling or junking of automobiles or other vehicles; storage of automobiles or vehicles for wrecking, dismantling or junking or the salvaging or selling or parts therefrom, except when wholly carried on within a fully enclosed building.

(B) *Setback, area, and height restrictions.*

(1) Setback, area and height regulations for dwelling units are the same as in R-2 Multiple Family Residential;

(2) No front yard is required;

(3) The minimum side yard setback shall be five feet along each side lot line. The side lot on the street side of a corner lot shall be not less than 122 feet;

(4) No rear yard is required, except where a lot abuts upon a dwelling district, in which case there shall be a rear yard of not less than 15 feet;

(5) No building shall exceed 35 feet in height.

(C) *Loading and unloading regulations.*

(1) Any commercial or industrial building shall provide one space with minimum dimensions of 10 feet by 25 feet for the loading or unloading of trucks or trailers either within the building or upon the lot for every building containing 10,000 square feet or less gross floor area.

(2) One additional loading space shall be provided for each additional 10,000 square feet of gross floor area or fraction thereof.

(Am. Ord. 204, passed 5-20-2003)

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' 154.24 NONCONFORMING USES

A nonconforming use of a building or portion thereof or land, which use existed on January 5, 1959, (effective date of Ordinance No. 10) and which use remains nonconforming at the time any subsequent amendment to this code is adopted, may be continued or changed subject to the following regulations:

(A) Any building, legally under construction or built prior to or on January 5, 1959, or at the time an amendment to this chapter becomes effective, may be established as a bona fide nonconforming use by the Board of Trustees, if the Board finds that the construction represents a substantial investment.

(B) No building or portion thereof or land used in whole or in part for nonconforming purpose, according to the provisions of this chapter, which hereafter becomes vacant for a continuous period of 12 calendar months, shall again be used, except in conformity with the regulations of the zone in which the building or land is situated.

(C) (1) A nonconforming use of a building or a portion thereof, or of land or a portion thereof, shall not be extended or enlarged by the attachment of signs to the building, by the placement of signs or displays materials on land outside of the building or by the attachment of racks, balconies or other projections from the building or in any other manner, except when required by law or ordinance.

(2) Dwellings which are nonconforming only as the height, yard area or lot area per family, however, may be structurally altered and their cubical content increased if the alteration or increase in cubical content does not further encroach upon any required yard space or off-street parking space.
(Am. Ord. 204, passed 5-20-2003)

' 154.25 EXCEPTIONS AND MODIFICATIONS.

(A) *Applicability.* The regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(B) *Exceptions and modifications to lot-area-per-family requirements.* Where a lot has less area than the minimum requirements for the district within which the lot is located and was a lot of record in separate ownership from adjacent property at the time of passage of this chapter, that lot may be used only for a single family dwelling purposes or for any non-dwelling purpose permitted in the district within which the lot is located.

(C) *Exceptions and modifications of height limitations.*

(1) The height limitations of this chapter shall not apply to: church spires; ornamental towers and spires; belfries; radio or television antenna or aerials; monuments; chimneys; tanks; elevator

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bulkheads; water towers; smoke stacks; fire towers; state towers or sensory lofts; conveyors; cooling towers; and flag poles.

(2) Public, semi-public or public service buildings or schools, when permitted in any dwelling or C Commercial zone, may be erected to a height not exceeding 60 feet, and hospitals, churches and temples when permitted in any dwelling or C Commercial zone, may be erected to a height not exceeding 75 feet when the required front, side and rear yards are each increased by at least one foot for each one foot of additional building height above the height limit otherwise provided in the district in which the building is located.

(D) *Exceptions and modifications of yard and open space regulations.*

(1) Where less than 60% of a lot is occupied by dwelling units in commercial and industrial districts, no side yards are required, except a side yard as may be required in the district regulations for a commercial or industrial building on the side of a lot abutting on a dwelling district. Where a side yard is provided, but not required, the yard shall be not less than ten feet in width. Where a rear yard is provided, but not required, the rear yard shall not be less than five feet in depth.

(2) More than one main institutional, public or semi-public, commercial or industrial building may be located upon a lot or tract, provided no building or portion thereof is located outside the buildable area of the lot.

(3) Every part of a required yard shall be open to the sky, except where accessory buildings are permitted in a rear or side yard, and except for the ordinary projections of sills, belt courses, cornices and or ornamental features projecting not to exceed 18 inches.

(4) A carport or canopy may project into a required side yard, provided that every part of the projection of the carport or canopy is unenclosed, is removed at least three feet from the nearest side lot line and does not extend more than 25 feet in length or more than 13 feet in height.

(5) An open unenclosed, uncovered porch or paved terrace may project into a required front yard for a distance of not more than ten feet, but this shall not be interpreted to include or permit fixed canopies.

(6) Temporary roadside stands in RA Residential/Agricultural, may be located within the front yard.

(E) *Exceptions and modifications to use regulations.*

(1) Power plants, heating or refrigerating plants or apparatus or machinery, which are accessory to permitted uses in RA Residential/Agricultural, shall be permitted in the above named

districts only if so placed and operated as to cause the least inconvenience to owners or tenants of adjoining lots and buildings and provided that all of the above mentioned activities comply with existing ordinances and do not cause serious annoyance or injury to occupants of adjoining premises by reason of the emission of odors, fumes or gases, dust, smoke, noise or vibration, light or glares or other nuisance.

(2) Existing railroads and utilities may continue to be operated and maintained in dwelling and commercial districts, but no new railroads or utility structure other than the usual poles, transformers and other similar appurtenances, wires, underground utilities, electric substations and gas pressure regulating and metering stations shall be established in the districts, except when so authorized by the Board of Trustees.

(3) Fences may be erected along the boundaries of a lot or yard area subject to the requirements of Uniform Building Code; one segment of fence may be erected in each required side yard area, in an alignment approximately parallel to the front lot line and connecting the main building with a fence on or along a side lot line.

(4) Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the construction work is in progress, but the temporary buildings shall be removed upon completion of the construction work.

(F) *Regulation of accessory buildings.*

(1) Any accessory building may be built in a required side or rear yard.

(2) Required setbacks are:

(a) Forty feet from the front lot line;

(b) Two feet from either side or rear lot line;

(c) Twelve and one-half feet from the street side of a corner lot.

(3) Accessory buildings or structures permitted in an required rear or side yard by this chapter, shall not exceed 13 feet in height.

(4) On a corner lot or an interior lot an accessory building may project from required rear yard into a required side yard on or parallel to any interior side lot line; provided no portion of the accessory building is located over 25 feet from the rear property line.

(G) *Community unit plan.*

(1) An authorized agency of the municipal, state or federal government or the private owner or owners of any tract of land comprising an area of not less than ten acres may submit to the Board of Trustees a plan for the use and development of all of the tract of land for residential and allied purposes.

(2) The Board shall hold public hearings after proper study.

(3) Notice and publication of the public hearings shall conform to the procedure prescribed.

(4) In ' 154.39 for hearings on changes and amendments, regard shall be had for the following condition in determining whether to or approve or disapprove the plan:

(a) The property adjacent to the area included in the plan will not be adversely affected;

(b) The plan is consistent with the intent and purposes of this chapter to promote public health, safety, morals and general welfare;

(c) That the buildings shall be used only for single-family dwellings, multiple dwellings and the usual accessory uses such as private or storage garage, parking spaces and for non-commercial community activities such as libraries, schools and other similar uses; and/or

(d) That the average lot area per family contained in the side, exclusive of the area occupied by streets, will not be less than the lot area per family required in the district in which it is located.

(5) If the Board of Trustees approves such a plan, building permits and certificates of occupancy may be issued even though the use of land and the location and height of buildings to be erected in the area and the yards and open space contemplated by the plan, do not conform in all respect to the district regulations of the district in which it is located.

(Am. Ord. 204, passed 5-20-2003; Am. Ord. 209, passed 1-20-04)

' 154.26 SPECIAL USES.

(A) The Board of Trustees, by special permit and subject to protective restrictions that are deemed necessary may authorize the location, extension or structural alteration of any of the following buildings

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or uses, or an increase in their height, in any district from which they are prohibited or limited by this chapter:

(1) Any public building erected or leased and used by any official agency or a municipal, state or federal government;

(2) Hospitals, clinics and institutions, provided, however, that the buildings may occupy not over 50% of the total area of the lot or tract and will not have any serious or depreciating effect upon the value of the surrounding property; and, provided, further, that the buildings shall be set back from all required yard lines heretofore established by this chapter and additional distance of not less than one foot for every foot of building height, over that required in the respective district, and that off-street parking space will be provided;

(3) Cemeteries or mausoleums;

(4) Greenhouses;

(5) Nurseries or truck gardens;

(6) Roadside stands, commercial amusement or recreational developments for temporary or seasonal periods;

(7) Extraction of sand, gravel, shells, top soil and other natural resources;

(8) Parking lots on land not more than 300 feet from the boundary of any shopping, commercial or industrial district, under such conditions as will protect the character of surrounding property;

(9) Drive-in theaters in a C Commercial zone, or in RA Residential/Agricultural;

(10) Radio or television broadcasting towers and stations;

(11) Filling stations and trailer parks in RA Residential/Agricultural, or in R-MH Mobile Home Residential; and

(12) Public or other non profit welfare agencies.

(B) Before issuance of any special permit for any of the above buildings or uses, the following conditions shall be complied with:

(1) A public hearing in relation thereto shall be held before the Board of Trustees, notice and publication of which hearing shall conform to the procedure for hearings on changes and amendments.

(2) The Board of Trustees shall study the effect of the proposed building or use upon the character of the neighborhood and upon traffic conditions, public utility facilities and other matters pertaining to the public health, public safety or general welfare. No final actions shall be taken by the Board upon any application for a proposed building or use until the regular meeting of the Board of Trustees, next succeeding the date of the public hearing, unless a majority of the Board present, excluding the Mayor, shall vote in favor or against the application.

(Ord. 204, passed 5-20-2003)

154.27 OFF-STREET PARKING.

(A) *General provisions.*

(1) Location.

(a) For single family and multiple family dwellings, required parking shall be located on the same lot as the main building.

(b) For all other uses, required parking shall be located on the same lot or an abutting lot. Required parking shall not be located across the street or with an intervening property, except by conditional use permit.

(2) Mixed occupancies in a building. In the case of mixed uses in the building or on a lot, the total parking requirements shall be the sum of the requirements computed for the various uses.

(3) Joint use. Joint use of parking facilities may be authorized when the use is primarily daytime for one use and nighttime for the other or weekdays for one applicant and weekend for the other.

(4) Submission of plans. The plans for any proposed multiple family residential, mobile home park, commercial or industrial parking area shall be submitted with the site plan application.

(B) *Parking spaces required.*

(1) Apartments, rooming houses: One and one-half spaces for each dwelling unit;

(2) Automotive and machinery repair, sales or wholesaling: One space for each 600 feet of gross sales area;

(3) Banks, business and professional offices: One space for each 600 feet of gross floor area;

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- (4) Hotels, motels and bed and breakfasts: One space for each sleeping unit;
- (5) Hospital, medical and dental clinics: One space for each 600 square feet of gross floor area;
- (6) Libraries, museums, and similar non assembly cultural facilities: One space for each 600 square feet of gross floor area;
- (7) Manufacturing: Not less than one space for each 800 square feet of gross door space plus one space for each employee during the maximum shift;
- (8) Retail stores: One space for each 600 square feet of gross floor area;
- (9) Residences (single family dwellings): Two spaces;
- (10) Restaurants and bars: One space for each 100 feet of gross floor area;
- (11) Schools, private and public: One space for each employee and one space for each three students of driving age;
- (12) Stadiums, sports arenas, theaters, auditoriums and other places of public assembly: One space for each 100 square feet of gross floor area.

(C) *Parking requirements for uses not specified.* Parking requirements for land uses not specified above shall be based on the most comparable use specified herein.

(Am. Ord. 204, passed 5-20-2003; Am. Ord. 209, passed 1-20-04)

ADMINISTRATION AND ENFORCEMENT

' 154.35 REQUIRED PERMITS.

It shall be unlawful to construct, alter, remove, demolish or repair a building or any other side built structure or to install a manufactured or modular structure within the limits of the village without first obtaining a village building site permit and a manufactured/modular structure installation permit or state building permit where applicable.

(Ord. 204, passed 5-20-2003)

Cross-reference:

For provisions regarding required permits, see ' 151.02

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' 154.36 BOARD OF APPEALS.

(A) *Creation.* A Board of Appeals is hereby created and established. The word Board, when used in this chapter, shall be construed to mean the Board of Appeals. The Board shall consist of the Board of Trustees.

(B) *Functions of the Board.* The Board shall adopt rules of procedure not in conflict with any state act or village ordinance. Meetings of the Board shall be held at the call of the Chairperson, who shall be the Mayor. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact and shall keep record of its examinations and other official actions, all of which shall be filed immediately in the office of the Clerk of the village and shall be a public record. All testimony, objections thereto and rulings thereon shall be taken down by a reporter employed by the person, party or agency so desiring a record of the proceedings.

(C) *Procedure.*

(1) Appeals to the Board may be taken by any party aggrieved, or by any office, department, board or any other agency of the village affected by any decision of Code Enforcement or Planning and Zoning Commission. The appeal shall be taken within 15 days after the decision of the Code Enforcement or Planning and Zoning Commission by filing with the Board and Code Enforcement or Planning and Zoning Commission a notice of appeal specifying the grounds thereof.

(2) The Board shall fix a reasonable time for the hearing of the appeal to be conducted in accordance with the Battershell Guidelines no more than 30 days after notice, give public notice thereof, as well as due notice to the interested parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. Nothing herein contained shall be construed to prevent the Board of Trustees from holding any hearing at a regular meeting of the Board, provided due notice, as herein provided is given.

(D) *Powers of Board.*

(1) The Board shall have the following powers and it shall be its duty:

(a) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Code Enforcer or Planning and Zoning Commission;

(b) In hearing and deciding appeals the Board shall have the power to grant an exception in the following instances:

1. Where the boundary line of a district divides a lot held in a single ownership at the time of the passage of Ordinance No. 10 permit the extension of the district to include the entire lot;
2. Interpret the provision of this chapter in such a way as to carry out the intent and purposes of the plan, as shown upon the map fixing the several districts, where the street layout actually on the ground varies from the street layout as shown on the map aforesaid;
3. The Board shall have the authority to grant the following variances:
 - a. Permit a variance in the yard requirements, height restrictions or lot-area-per-family requirements of any district, but only where there are unusual and practical difficulties or unnecessary hardships in the carrying out of their provisions due to an irregular shape of the lot, topographical or other physical conditions, provided the variance shall not seriously effect any adjoining property or the general welfare.
 - b. Authorize, whenever a property owner can show that a strict application of the terms of this chapter relating to the use, construction or alteration of buildings or structures or the use of land will impose upon and practical difficulties or particular hardships, the variance of the strict application of the terms of the chapter as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of the variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a deviation from the comprehensive plan as established by this chapter, and at the same time, the surrounding property will be properly protected.

(2) In consideration of all appeals and all proposes exceptions or variances under terms of the chapter, the Board shall, before making any exceptions or variances from this chapter in a specific case, first determine that it will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger public safety or unreasonably diminish or impair established property values within the surrounding area or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the village.

(3) In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or modify the order requirements, decision or determination as ought to be made.

(E) *Fees.* A fee of \$5 shall be paid to the Village Treasurer and receipt given therefore at the time the notice of appeal or petition for relief is filed, which sum is to be paid to the credit of the general revenue fund of the village.

(Ord. 204, passed 5-20-2003)

' 154.37 CODE ENFORCER.

(A) (1) The Office of Code Enforcer is hereby created.

(2) The Code Enforcer shall be appointed by the Mayor with the approval of the Board of Trustees. His or her appointment shall continue for such period as may be determined by the Board of Trustees.

(B) It shall be the duty of the Code Enforcer to enforce this chapter. He or she shall examine all premises for which village permits have been issued and shall see that the provisions of law are complied with. He or she shall enforce all laws relating to location and maintenance of buildings and structures and make investigation in connection with matters referred to in this and other chapters of the village ordinances.

(C) The Code Enforcer is authorized to issue non-traffic citations.
(Ord. 204, passed 5-20-2003)

' 154.38 RECENTLY ANNEXED TERRITORY

All territory which may hereafter be annexed to the village shall be subject to all the regulations of Zone RA Residential/Agricultural unless the Board of Trustees accepts a zoning plan with the annexation.
(Ord. 204, passed 5-20-2003)

' 154.39 CHANGES AND AMENDMENTS.

(A) *Initiation of change and procedures.*

(1) The Board of Trustees may, from time to time, on its own motion or on petition, after public notice and hearing, amend the regulations and zoning districts herein established. If the owners of 20% or more of the area of the lots and land included in the area proposed to be changed by a zoning regulation or within 100 feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing a proposed change in a zoning regulation, the proposed change in zoning shall not become effective unless the change is approved by a three-fourths vote of all the members of the Board of Trustees.

(2) Notice of the time and place of the public hearing to be conducted in accordance with the Battershell Guidelines shall be published, at least 15 days prior to the date of hearing, in an official paper or a paper of general circulation, and whenever a change in zoning is proposed for an area of one

block or less, notice to the public shall be mailed by certified mail, return receipt requested, to the owners, as shown by the records of the County Assessor, or lots or land within the area proposed to be changed by a zoning regulation, and within 100 feet, excluding public rights-of-way, of the area proposed to be changed by a zoning regulation.

(3) Public participation will be in accordance with the Battershell procedures. These procedures are intended to protect the due process rights of all parties involved. Persons wishing to give testimony on any item shall wait to be recognized, then go to the lectern, give their name and address, be sworn in and limit their comments to three minutes. A person may speak more than once provided they avoid being repetitive. Proponents shall speak first, followed by opponents.

(B) *Fee.* A fee of \$65 shall be charged for filing application for rezoning to defray publication and administrative costs.

(C) *Application for rezoning.* Where deemed necessary by the Board of Trustees, any future application for rezoning may be approved by the Board of Trustees subject to reasonable conditions regarding the future use of the property being rezoned. Thereafter, should the conditions not be complied with, the Board of Trustees shall have the right to revoke the rezoning permit and restore the zoning to its original classification; provided, however, that no revocation shall become effective until the owner of the property shall receive a written notice to appear before the Board of Trustees within 15 days from the time of the notice and be heard as to why such revocation should not forthwith be approved.

(D) *Two-year limitations.*

(1) Whenever a petition is filed requesting or proposing a change in an amendment of this chapter and the petition has been finally acted upon by the Board of Trustees in accordance with the above procedure or when the petition has received no action on the part of the Board of Trustees, or from the date of withdrawal of the petition; provided, however, that the petition has been officially advertised.

(2) The provisions of this section do not apply in cases when the Board of Trustees wishes to consider a comprehensive zoning revision of an area larger than 20 acres.

(Am. Ord. 204, passed 5-14-2003; Am. Ord. 217, passed 12-20-2005)

154.99 PENALTY.

(A) *Penalty.* Any person or corporation who shall violate any of the provisions of this chapter or fail to comply with any of the requirements thereof, or who shall build, alter or install any buildings or structures in violation of the detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable for a fine of not more than \$500 and/or imprisonment for up to 90 days. Each day each violation shall be permitted to exist shall constitute a separate offense. The owner of any building or premises or part thereof, where anything in this chapter shall be placed and shall exist, and any architect, building contractor, agent, person, or corporation employee in connection therewith

and who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof shall be fined and/or imprisoned as herein provided.

(B) *Enforcement procedure.* Any possible violation shall be reported to the village office and recorded as a formal complaint. A representative of the village shall determine if a violation exists. The owner/ contractor of the project shall be notified by certified letter of the nature of the violation and what procedures shall be taken to correct same. If no response is received within ten days or if immediate action is necessary, it shall be the responsibility of the Mayor or his representative to enforce the ordinance.

(Ord. 204, passed 5-20-2003)

CHAPTER 155: MOBILE HOME AND RECREATIONAL VEHICLE PARKS

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GENERAL PROVISIONS

' 155.01 DEFINITIONS.

For the purposes of this chapter, the following words and terms shall have the following definitions unless the context clearly indicates or requires a different meaning.

COMMON-USE AREA. An area within a mobile home park or recreational vehicle park which is set aside for the use by management, tenants and guests in the park.

LOT. A tract of land in a mobile home park divided and set aside for rental or leasehold to a tenant in the park.

MOBILE HOME. A movable or portable housing structure that exceeds either a width of eight feet or a length of 40 feet constructed to be towed on its own chassis and designed so as to be installed without a permanent foundation for human occupancy as a residence. It may include one or more components that can be retracted for towing purposes and expanded for additional capacity, or two or more units separately towable but designed to be joined into one integral unit. This definition does not include recreational vehicles as defined in this section, or modular, prefabricated or manufactured homes, as defined by state law, designed to be permanently affixed to real property.

MOBILE HOME PARK. A tract of land with common ownership on which are located for habitation purposes two or more mobile homes, long-term recreational vehicles or a combination of both for the express purpose of a commercial enterprise.

PARK. As the context requires, this term refers to mobile home ***PARKS***, recreational vehicle ***PARKS***, or both.

RECREATIONAL VEHICLE. A vehicle, with or without motive power, capable of human habitation or camping purposes and/or used for sporting, recreation or social activities including but not limited to trailers, motor coaches, motor homes, fifth-wheels, campers, camper shells and camper trailers.

RECREATIONAL VEHICLE PARK. A tract of land with common ownership on which are located for short-term or long-term habitation two or more recreational vehicles, or spaces for the same.

SPACE. A plot of ground within a recreational vehicle park designed for the accommodation of a recreational vehicle.

STREET. A private drive within a park used as access by the management, residents and guests of the park.

(Ord. 222, passed 6-19-2007)

MOBILE HOME PARKS

' 155.02 DEVELOPMENT PLAN.

(A) Before the establishment of a mobile home park, whether new or pursuant to ' 155.13, in a properly zoned area, the owner shall submit to the Village Planning and Zoning Commission for review 12 copies of a detailed Development Plan of the proposed park, certified by a licensed surveyor or engineer. Submission shall be at least 30 days before the Planning and Zoning Commission meeting at which the Development Plan is to be considered and shall be accompanied by a filing fee of \$ 150 plus \$50 per lot.

(B) The Planning and Zoning Commission shall determine if the proposed park conforms to this chapter and other applicable ordinances and shall recommend to the Board of Trustees approval or denial of the Development Plan. The Planning and Zoning Commission may also recommend such conditions as may be necessary to promote safety, appearance and proper land use.

(C) The Board of Trustees shall review the Development Plan and the recommendation of the Planning and Zoning Commission and shall either approve, approve with conditions or disapprove the Development Plan.

(D) Mobile home parks shall be developed only in accordance with the terms of approval of the Development Plan by the Board of Trustees.

(E) *Development Plan contents.* The Development Plan shall show:

- (1) North arrow and scale;
- (2) Key map showing location of park;
- (3) Outer boundary of park and streets and utilities within 100 feet;
- (4) Location and dimension of all lots, spaces, open areas and common-use areas;
- (5) Location of existing and proposed permanent buildings;
- (6) Location and size of proposed and existing utilities in and adjacent to the park, including fire hydrants;
- (7) A finished grading and drainage plan;
- (8) Numbers of all lots;
- (9) Location of all solid waste containers;

(10) Density information, including gross acreage, number of mobile housing units proposed and the number of units per acre; and

(11) Identification of phases, if applicable (see ' 155.06).
(Ord. 222, passed 6-19-2007)

' 155.03 SIZE AND DENSITY.

Mobile home parks shall be a minimum of five acres in size and shall not contain more than six mobile housing units per gross acre. In the case of a mobile housing unit constructed for occupancy by more than one family, each dwelling unit within the mobile housing unit shall be counted toward this density standard.
(Ord. 222, passed 6-19-2007)

' 155.04 SPACING AND SETBACKS.

(A) Minimum lot size: 5,000 square feet.

(B) Front yard setback: 25 feet. Tongues shall not project into setback areas.

(C) Rear yard setback: ten feet.

(D) Side yard setback: five feet, with a minimum distance between mobile housing units of 14 feet.

(E) Minimum distance between a mobile housing unit and any building or the park boundary: ten feet.

(F) An area of unobstructed vision (sight triangle) of not less than 30 feet in any dimension shall be located on either side of a park street where it adjoins any public right-of-way.
(Ord. 222, passed 6-19-2007)

' 155.05 IMPROVEMENTS REQUIRED.

(A) Before the occupancy of any lot in a mobile home park, all required street and utility improvements within the park must be completed prior to approval by the village. Required street and utility improvements adjacent to the park must either be completed and accepted by the village or must be covered by a waiver of protest agreement and/or development contract if the village deems delayed improvements to be appropriate.

(B) All waterlines must be looped and fire hydrants installed according to village standards. Waterlines supporting fire hydrants must be at least six inches in diameter.

(C) Internal street improvements shall meet the following standards:

(1) Street shall be at least 24 feet wide.

(2) Internal streets shall be improved with a double penetration surface or hot-mix asphalt in accordance with village standards.

(3) Each mobile home park shall provide direct access to public rights-of-way of at least a 50-foot width at a minimum of two points. The streets providing direct access shall not be blocked to through travel, or be either cul-de-sacs or dead-end streets.

(4) Street blocks shall not exceed 800 feet in length, and cul-de-sacs shall not exceed 500 feet with a 50-foot radius.

(D) For all platted public streets adjacent to the proposed mobile home park development, the developer shall construct streets to village standards as specified in the subdivision requirements in accordance with the village specifications. The village may also require that the developer provide service alleys as part of the Development Plan.

(E) The developer shall be responsible for extending and connecting all needed utilities to the mobile home park. Each lot shall be served by water, sewer and electrical connections. Mobile housing units may not be served by liquefied petroleum gas unless natural gas service cannot be obtained.

(F) Parking areas, sufficient in size to accommodate two motor vehicles and improved with an all-weather surface such as asphalt, concrete or gravel shall be provided on each lot.

(G) At a minimum, 48-inch walkways shall be provided from each mobile housing unit to an adjacent street. Walkways shall be improved with gravel, flagstone or other all-weather surface.

(H) A sign or monument bearing the name of the mobile home park and its street address shall be prominently displayed at each entrance.

(I) Skirting on mobile homes shall be required. All skirting to mobile housing units= undercarriages shall be of nonflammable materials and shall cover the tongue (if not removed).

(Ord. 222, passed 6-19-2007)

' 155.06 PHASING.

A mobile home park may be developed in phases if each phase is clearly identified on the Development Plan. Each phase must contain not less than one-third of the park area, and the total park development time shall not exceed two years. Occupancy for any phase for which required improvements

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have been completed may begin before completion of improvements in later phases. However, not less than one-half of the required common-use area must be in the first phase.

(Ord. 222, passed 6-19-2007)

' 155.07 WALLS AND FENCES.

(A) Each mobile home park shall be completely surrounded by a solid perimeter wall or fence, not less than six (6) feet in height, and preferably finished in adobe style, subject to ' 155.04(F).

(B) Rear fences separating lots in the park are permitted if they are not less than four feet high and are constructed of nonflammable material.

(Ord. 222, passed 6-19-2007)

' 155.08 LOT STANDARDS.

(A) All lots and open areas in the park must be adequately drained, graded and landscaped to provide erosion and dust control.

(B) Each lot shall have frontage on an interior street in the park; frontage on a public road is prohibited.

(C) Not more than one mobile housing unit shall be parked on a given lot, and no mobile housing unit shall be parked in a mobile home park outside of a designated lot.

(Ord. 222, passed 6-19-2007)

' 155.09 COMMON-USE AREAS.

Each mobile home park shall have at least 5000 square feet of common-use area for every ten mobile housing unit lots within the park. Each common-use area shall have a minimum area of 5000 square feet and shall be maintained to preserve an attractive appearance and to protect the health and safety of its users. Common-use areas may be improved as recreational areas or landscaped for use as park areas.

(Ord. 222, passed 6-19-2007)

' 155.10 LIGHTING.

All streets within the mobile home park and open areas other than lots shall be lighted so as to clearly define the boundaries of streets and to provide for the safe use of the streets and the open areas. All lighting fixtures shall be located so that they do not directly shine on any public right-of-way or residential premises outside the mobile home park and shall be in compliance with village lighting requirements.

(Ord. 222, passed 6-19-2007)

' 155.11 SANITATION.

Each mobile home park shall have provision for the collection of not less than one-half cubic yard of refuse weekly per lot. Dumpsters shall be centrally located among the lots served.

(Ord. 222, passed 6-19-2007)

' 155.12 ACCESSORY USES.

The following accessory uses are permitted:

(A) Day-care center for residents of the park;

(B) Sales and rental office; mobile home owners and/or managers are allowed to live on site;

(C) Model mobile home sales lots or areas not exceeding 5% of the area of the mobile home park;

(D) Home occupations as permitted in any single-family dwelling district, except a home occupation must not generate any additional traffic to the mobile home park;

(E) Storage of recreational vehicles, where the storage area is screened in the same manner as is required for the perimeter of the park;

(F) Self-storage units for the use of tenants of the park; and

(G) Services and conveniences for the occupants of the park and their guests, such as barbershops, beauty shops and laundromats.

(Ord. 222, passed 6-19-2007)

' 155.13 EXISTING MOBILE HOME PARKS.

Any existing mobile home park which either does not comply with all the provisions of this subchapter in effect at the time it was adopted shall be grandfathered in, if the following criteria is met: the existing mobile home park must have been licensed to operate within the village, prior to this subchapter being adopted. Any mobile home park that is not in compliance with village regulations and is not licensed to operate within the village will be treated as a new mobile home park and will have to abide with all stipulations of this subchapter. In the event that an existing mobile home park wishes to expand, it shall then have to conform with the terms of this subchapter at the time of any expansion(s), with minimum acreage provision applying to the total area of the expanded park.

(Ord. 222, passed 6-19-2007)

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' 155.14 EID REGULATIONS.

Each mobile home park shall comply with all rules and regulations of the State of New Mexico Environmental Division, including registration with the same. If any rule prescribed by the EID is more restrictive than a provision of this subchapter, such rule will apply.
(Ord. 222, passed 6-19-2007)

RECREATIONAL VEHICLE PARKS**' 155.25 DEVELOPMENT PLAN.**

(A) Before the establishment of a recreational vehicle park, whether new or pursuant to ' 155.35 in a properly zoned area, the owner shall submit to Village Planning and Zoning Commission for review 12 copies of a detailed Development Plan of the proposed park, certified by a licensed surveyor or engineer. Submission shall be at least 30 days before the Planning and Zoning Commission meeting at which the Development Plan is to be considered and shall be accompanied by a filing fee of \$150 plus \$50 per space.

(B) The Planning and Zoning Commission shall determine if the proposed park conforms to this subchapter and other applicable ordinances and shall recommend to the Board of Trustees approval or denial of the Development Plan. The Planning and Zoning Commission may also recommend such conditions as may be necessary to promote safety, appearance and proper land use.

(C) The Board of Trustees shall review the Development Plan and the recommendation of the Planning and Zoning Commission and shall either approve, approve with conditions or disapprove the Development Plan.

(D) Recreational vehicle parks shall be developed only in accordance with the terms of approval of the Development Plan by the Board of Trustees.

(E) *Development Plan contents.* The Development Plan shall show:

- (1) North arrow and scale;
- (2) Key map showing location of park;
- (3) Outer boundary of park and streets and utilities within 100 feet;
- (4) Location and dimension of all spaces, open areas and common-use areas;
- (5) Location of existing and proposed permanent buildings;

- (6) Location and size of proposed and existing utilities in and adjacent to the park, including fire hydrants;
 - (7) A finished grading and drainage plan;
 - (8) Numbers on all spaces;
 - (9) Location of all solid waste containers;
 - (10) Density information, including gross acreage, number of recreational vehicle units proposed and the number of units per acre (see ' 155.30); and
 - (11) Identification of phases if applicable (see ' 155.27).
- (Ord. 222, passed 6-19-2007)

' 155.26 IMPROVEMENTS REQUIRED.

(A) Recreational vehicle parks are exempted from the requirement of individual water, sewer and electrical connections per space, if water is available within 100 feet of any space, and there are at least two dump facilities for each five acres of the park. Natural gas or LPG connections to individual spaces are prohibited.

(B) Before the occupancy of any space in a recreational vehicle park, all required street and utility improvements within the park must be completed prior to approval by the village.

(C) In the event that the developer wants to extend water, sewer and electrical connections to the Recreational Vehicle Park, he or she will be required to follow all village standards and/or state requirements. All waterlines must be looped. All waterlines supporting fire hydrants must be at least six inches in diameter.

(D) Recreational vehicle parks with 18 spaces or less will be required to follow the at the minimum the specifications pertaining to division (A) above.

(E) Internal street improvements for recreational vehicle parks five acres or more, and over 18 spaces shall meet the following standards:

(1) Streets shall be at least 24 feet wide;

(2) Internal streets shall be improved with a double penetration surface or hot-mix asphalt in accordance with village standards; and

(3) Each recreational vehicle park shall provide direct access to public right-of-way of at least a 50-foot width at a minimum of two points. The streets providing direct access shall not be blocked to through travel.

(4) In the event that the developer wants to extend water, sewer and electrical connections to a recreational vehicle park, he or she will be required to follow all village standards and/or state requirements, at his or her expense.

(5) Parking areas, sufficient in size to accommodate two motor vehicles, and improved with an all-weather surface, such as gravel, asphalt or concrete.

(6) Sign or monument bearing the name of the recreational vehicle park and its street address shall be prominently displayed at each entrance. Sign shall conform to village standards.
(Ord. 222, passed 6-19-2007)

' 155.27 PHASING.

A recreational vehicle park five acres or more and over 18 spaces may be developed in phases if each phase is clearly identified on the development plan. Each phase must contain not less than one-third of the park area, and the total park development time shall not exceed two years. Occupancy for any phase for which required improvements have been completed may begin before completion of improvements in later phases. However, not less than one-half of the required common-use area must be in the first phase.
(Ord. 222, passed 6-19-2007)

' 155.28 WALLS AND FENCES.

(A) Each recreational vehicle park, regardless of size, shall be completely surrounded by a wall or fence not less than six feet high in a style conducive to the area around the park. An area of unobstructed vision (sight triangle) not less than 30 feet in any dimension shall be located on either side of a park street where it adjoins any public right-of-way.

(B) Rear fences are permitted if they are not less than four feet high and constructed with nonflammable materials.
(Ord. 222, passed 6-19-2007)

' 155.29 STANDARDS.

All recreational vehicle parks within properly zoned areas shall comply with the provisions of this subchapter relating to recreational vehicle parks.
(Ord. 222, passed 6-19-2007)

' **155.30 SIZE AND DENSITY.**

(A) Maximum density shall be 18 spaces per gross acre.

(B) Each space shall have a minimum size of 1,650 square feet.

(C) The yard setbacks are required only between recreational vehicles or buildings and the external boundaries, as follows:

(1) A minimum distance of 14 feet between recreational vehicle units;

(2) Minimum distance of ten feet between an RV unit and any building or the park boundary;

(3) An area of unobstructed vision (sight triangle) of not less than 30 feet in any dimension shall be located on either side of a park street where it adjoins any public right-of-way.

(Ord. 222, passed 6-19-2007)

' **155.31 COMMON-USE AREAS.**

Each recreational vehicle park of five acres or more shall have at least 5,000 square feet of common-use area for every 90 units within park. A common-use area shall be maintained to preserve an attractive appearance and to protect the health and safety of its users. Common-use areas may be improved as recreational areas or landscaped for use as park areas.

(Ord. 222, passed 6-19-2007)

' **155.32 LIGHTING.**

All streets in a recreational area of five acres or more and open areas within the park shall be lighted so as to clearly define the boundaries of streets and to provide for the safe use of the streets and the open areas. All lighting fixtures shall be located so that they do not directly shine on any public right-of-way or residential premises outside the recreational vehicle park and shall be in compliance with village requirements.

(Ord. 222, passed 6-19-2007)

' **155.33 SANITATION.**

Each recreational vehicle park regardless of size shall have provision for the collection of not less than one-half cubic yard of refuse weekly per lot. Dumpsters shall be centrally located among the lots served.

(Ord. 222, passed 6-19-2007)

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' 155.34 TOILET AND LAVATORY FACILITIES.

The following toilet and lavatory facilities shall be required for renters, users or occupants of recreational vehicle parks:

(A) Water-flush toilets and urinals shall be provided, and shall not be farther than 300 feet from any space not provided with an individual sewer connection;

(B) One lavatory shall be provided for up to six toilets. One additional lavatory shall be provided for each two toilets when more than six toilets are required; and

(C) Separate facilities shall be provided for men and women. Urinals shall be acceptable for no more than one-third of the toilets required in the men=s facilities.

(Ord. 222, passed 6-19-2007)

' 155.35 EXISTING RECREATIONAL VEHICLE PARKS.

Any existing recreational vehicle park which either does not comply with all the provisions of this subchapter in effect at the time it was adopted shall be grandfathered in, if the following criteria is met: the existing recreational vehicle park must have been licensed to operate within the village, prior to this subchapter being adopted. Any recreational vehicle park that is not in compliance with village regulations and is not licensed to operate within the village will be treated as a new recreational vehicle park and will have to abide with all the stipulations of this subchapter governing recreational vehicle parks. In the event that an existing recreational vehicle park wishes to expand, it shall then have to conform with the terms of this subchapter at the time of any expansion(s), with minimum acreage provision applying to the total area of the expanded park.

(Ord. 222, passed 6-19-2007)

' 155.36 EID REGULATIONS.

Each recreational vehicle park shall comply with all rules and regulations of the State of New Mexico Environmental Division, including registration with the same. If any rule prescribed by the EID is more restrictive than a provision of this subchapter, such rule will apply.

(Ord. 222, passed 6-19-2007)

' 155.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99, General Penalty.

(Ord. 222, passed 6-19-2007)

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CHAPTER 156: FLOOD DAMAGE PREVENTION

Section

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- 156.02 Findings of fact
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- 156.04 Methods of reducing flood losses
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- 156.06 Lands to which this chapter applies
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- 156.16 Variance procedures
- 156.17 General standards for flood hazard reduction
- 156.18 Specific standards
- 156.19 Standards for subdivision proposals
- 156.20 Penalties for non compliance

' 156.01 STATUTORY AUTHORIZATION.

The Legislature of the State of New Mexico has in NMSA Chapter 3, Articles 18, 41 delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the governing body of the Village of Tularosa does ordain as follows.

(Ord. 243, passed 4-20-2011)

' 156.02 FINDINGS OF FACT.

(A) There appear to be flood hazard areas in the Village of Tularosa based on the Flood Insurance Rate Maps dated December 17, 2010 which may be subject to periodic inundation, resulting 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 may adversely affect the public's health, safety and general welfare.

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

(Ord. 243, passed 4-20-2011)

' 156.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter 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:

(A) Protect human life and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions;

(E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(F) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

(G) Insure that potential buyers are notified that property is in a flood area.

(Ord. 243, passed 4-20-2011)

' 156.04 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter uses the following methods:

(A) 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;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging and other development which may increase flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. 243, passed 4-20-2011)

' 156.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLUVIAL FAN FLOODING. 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. 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. 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. The land area that would be inundated by the 1%-annual chance (100 year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING. A designated AO, AH, AR/AO, AR/AH or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of 1 to 3 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. The land in the floodplain within a community, subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE).- The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year (also called the Base Flood).

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL. 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. 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. Any man-made 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. 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. 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 FIRM's effective before that date. **EXISTING CONSTRUCTION** may also be referred to as existing structures.

EXISTING MANUFACTURED HOME PARK or SUBDIVISION. 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. 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. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and/or

- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION STUDY. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mud slide (*i.e.*, mud flow) and/or flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (*i.e.*, mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM). 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 PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOOD PROTECTION SYSTEM. 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 ***FLOOD-PRONE AREA.*** Any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT. 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. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODWAY. See Regulatory Floodway.

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities and 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. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. 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 Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE. A man-made structure, usually an earthen embankment designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. 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. 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. 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. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION. For the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, ***NEW CONSTRUCTION*** means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK or SUBDIVISION. 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. A vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RIVERINE. Relating to, formed by or resembling a river (including tributaries), stream, brook, and the like.

SPECIAL FLOOD HAZARD AREA. See Area of Special Flood Hazard.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of 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. 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. 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% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety 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. 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. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. 243, passed 4-20-2011)

' 156.06 LANDS TO WHICH THIS CHAPTER APPLIES.

The chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Tularosa. (Ord. 243, passed 4-20-2011)

' 156.07 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard have not been identified by the Federal Emergency Management Agency (FEMA) or Flood Hazard Boundary Map (FHBM), Community Number 35035C0660D, dated December 17, 2010. (Ord. 243, passed 4-20-2011)

' 156.08 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this chapter. (Ord. 243, passed 4-20-2011)

' 156.09 COMPLIANCE.

No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this chapter and other applicable regulations. (Ord. 243, passed 4-20-2011)

' 156.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 243, passed 4-20-2011)

' 156.11 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 243, passed 4-20-2011)

' 156.12 WARNING AND DISCLAIMER OR LIABILITY.

The degree of flood protection required by this chapter 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 man-made or natural causes. This chapter 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 chapter 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 chapter or any administrative decision lawfully made hereunder. (Ord. 243, passed 4-20-2011)

' 156.13 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The Board of Trustees shall appoint a Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management. (Ord. 243, passed 4-20-2011)

' 156.14 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(A) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter;

(B) Review permit application to determine whether proposed construction or other development, including the placement of manufactured homes, will be reasonably safe from flooding;

(C) Review, approve or deny all applications for development permits required by adoption of this chapter;

(D) 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 D.S.C. 1334) from which prior approval is required.

(E) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(F) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the New Mexico Department of Homeland Security and Emergency Management (DHSEM), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(G) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(H) When base flood elevation data has not been provided in accordance with ' 156.07, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of this Code.

(Ord. 243, passed 4-20-2011)

' 156.15 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 flood proofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of ' 156.18(B);

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

(5) Maintain a record of all such information in accordance with ' 156.14(A).

(B) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this chapter 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, executed at the site;
 - (8) The necessity to the facility of a waterfront location, where applicable; and
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (Ord. 243, passed 4-20-2011)

' 156.16 VARIANCE PROCEDURES.

- (A) The Appeal Board shall be the Tularosa Board of Trustees and shall hear and render judgment on requests for variances from the requirements of this chapter.
- (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 chapter.
- (C) Any person or persons 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 chapter.

(F) Variances may be issued for new construction and substantial improvements to be erected on a lot of two acres or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in this chapter have been fully considered. As the lot size increases beyond the two acres, the technical justification required for issuing the variance increases.

(G) Upon consideration of the factors noted above and the intent of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (' 156.03).

(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: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) 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 (i) the criteria outlined in ' 156.16 are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. 243, passed 4-20-2011)

' 156.17 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION.

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

(A) 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;

(B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(C) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(D) 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;

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(F) New and replacement sanitary/sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and

(G) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. 243, passed 4-20-2011)

' 156.18 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) ' 156.07, (ii) ' 156.14, or (iii) ' 156.19, the following provisions are required:

(A) *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 division as proposed in ' 156.15, is satisfied.

(B) *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 division. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.

(C) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) 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.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices that will permit the automatic entry and exit of floodwaters.

(D) *Manufactured homes.*

(1) Require that all manufactured homes to be placed in Zone A on a community's FIRM shall be installed using methods and practices that 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.

(2) Require that manufactured homes that are placed or substantially unproved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a 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 base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral damage.

(3) 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 ' 156.18(D) of this section be elevated so that either:

(a) the lowest floor of the manufactured home is at or above the base flood elevation, or

(b) 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.

(Ord. 243, passed 4-20-2011)

' 156.19 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with ' ' 156.02, 156.03 and 156.04 of this Code.

(B) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet the Floodplain Development Permit requirements of ' ' 156.08, 156.15 and the provisions of ' ' 156.17 to 156.20 of this Code.

(C) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured homes parks and subdivisions which is greater than 50 lots or five acres, whichever is less, if not otherwise provided pursuant to ' 156.07 or 156.14 of this Code.

(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. 243, passed 4-20-2011)

' 156.20 PENALTIES FOR NON COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this court ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon

conviction thereof be fined not more than \$500 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Village of Tularosa from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 243, passed 4-20-2011)

