

VILLAGE CODE

of

ANGEL FIRE, NEW MEXICO

2003

Code current through:

Ord. 2024-02, passed 7-9-2024

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PREFACE

This code of the Village of Angel Fire, as supplemented, contains ordinances up to and including ordinance 2024-02, passed July 9, 2024. Ordinances of the Village adopted after said ordinance supersede the provisions of this code to the extent that they are in conflict or inconsistent therewith. Consult the Village office in order to ascertain whether any particular provision of the code has been amended, superseded or repealed.

American Legal Publishing

Cincinnati, Ohio

ORDINANCES PENDING REVIEW FOR CODIFICATION

Listed ordinances have been passed, but they are pending review by the publisher, and they may not affect the code of ordinances. Additionally, ordinances listed in this section may not show the original ordinances in their entirety. Please contact the office of the clerk if there are any questions concerning any listed ordinances.

ORDINANCE NO 2024-03

AN ORDINANCE AMENDING TITLE 8, CHAPTER 1, OF THE VILLAGE CODE

WHEREAS the building code provisions of the Village must be reviewed periodically; and

WHEREAS building codes are updated to reference new editions;

NOW THEREFORE BE IT ORDAINED by the Angel Fire Village Council that the following amendments to Title 8 be adopted.

8-1-1: BUILDING CODES ADOPTED:

The building or construction of any new buildings and structures within the municipal boundaries of the village, including new construction, additions, alterations, demolition or repairs, shall comply with all the requirements of the 2021 international codes adopted by the state of New Mexico, July 14 2023, which include:

- A. International building code,
- B. International residential code,
- C. International existing building code.

- D. International residential energy conservation code.
- E. International commercial energy code.
- F. International commercial building code.
- G. International commercial energy conservation code.

as published by the International Code Council, and with the most current edition of the New Mexico building code as promulgated by construction industries division, general construction bureau, state of New Mexico. As the international codes and the New Mexico building code are, from time to time, amended, such amendments are hereby adopted by reference. One copy each of the international codes and the New Mexico building code adopted herein is available for inspection during the normal and regular business hours at the office of the village building official. (Ord. 2004-10, 11-4-2004)

8-1-4: PLUMBING CODE:

The Angel Fire village council hereby adopts the 2021 edition of the uniform plumbing code as adopted by the state of New Mexico and all subsequent editions adopted by the state of New Mexico after this date. (Ord. 2003-10, 9-17-2003)

8-1-5: MECHANICAL CODE:

The Angel Fire village council hereby adopts the 2021 edition of the uniform mechanical code as adopted by the state of New Mexico and all subsequent editions adopted by the state of New Mexico after this date. (Ord. 2003-10, 9-17-2003)

8-1-6: ELECTRICAL CODE:

The Angel Fire village council hereby adopts the 2020 edition of the national electrical code as adopted by the state of New Mexico and all subsequent editions adopted by the state of New Mexico after this date.

PASSED, APPROVED AND ADOPTED this 24 day of December, 2024.

Mayor BJ Lindsey

Attest:

Victor Rocky Lira, Village Clerk

ORDINANCE NO 2024-04

AN ORDINANCE AMENDING TITLE 9, OF THE VILLAGE CODE

WHEREAS this set of development code amendments would permit the Village of Angel Fire the construction of housing products; and

WHEREAS this set of amendments allow temporary wireless telecommunications towers to be used by conditional use permit; and

WHEREAS this set of amendments allow relabeling, repackaging, testing or extraction (without high solvent chemicals) to occur within the village of Angel Fire in certain zoning districts with a conditional use permit;

NOW THEREFORE BE IT ORDAINED by the Angel Fire Village Council that the following amendments to Title 9 be adopted.

9-2-1: DEFINITIONS:

CANNABIS MANUFACTURING: a use limited to the extracting, labeling or relabeling, packaging or repackaging, or testing of cannabis products. Extraction methods are limited to mechanical methods or nonvolatile solvents. This use must be conducted within a fully enclosed building. This use shall not be considered a home occupation use.

9-7-4, Off Street Parking Lots:

d. If a garage(s) is to be used to meet the minimum number of parking spaces required, then the garage(s) shall be set back twenty feet (20') from the edge of the private drive. Garages located less than twenty feet (20') from the edge of the private drive must utilize an automatic door opener. This setback area is not eligible to be included in meeting the minimum parking requirements.

9-7-17: Temporary Cellular Unit

Temporary cellular unit means any cellular communication structure, vehicle, trailer mounted apparatus, or device that is part of a system authorized by the Federal Communications Commission that is used to temporarily provide service where an existing tower/antenna for cellular communication is not operable for one or more of the following reasons:

(aa) The existing tower/ antenna for cellular communication use is damaged or destroyed other than by the intentional act of the owner or agent; or

(bb) A demolition or construction permit has been issued on a building site that includes an existing mounted cellular antenna, monopole cellular tower, or other cellular communication tower/antenna.

Temporary cellular unit is permitted by right in all districts. A permit shall be obtained for a temporary cellular unit and it shall be valid for 30 calendar days. This permit may be extended for an additional 30 calendar days.

Temporary cellular units are permitted by right in all districts in conjunction with a special events permit. Temporary cellular units shall be permitted for any event with a projected attendance over 1,000 people.

9-10C-4: DEVELOPMENT STANDARDS:

C. Minimum Front Lot Width: One hundred feet (100'); lots with a twenty percent (20%) slope or greater shall have a minimum width of two hundred feet (200'). No minimum lot width shall be required for lots that comply with minimum state requirements for water and wastewater standards.

9-10D-3: CONDITIONAL USES:

Wireless telecommunication towers:

1. Area Preservation: Preferred site location and development of wireless telecommunication facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. Where technically feasible, new facilities shall use the most preferred facility type. The order of preference for new facilities is as follows from most preferred to least preferred:

a. Colocation on an existing tower;

b. Antennas attached to existing structures such as buildings, light poles, and utility poles;

c. Concealed or camouflaged facilities;

d. Colocated with water tower or other public facilities;

e. New towers/facilities under fifty feet (50') in height;

f. New towers/facilities under one hundred feet (100') in height; and

g. New towers/facilities over one hundred feet (100') in height.

2. Preferred Type And Location: New facilities shall use the most preferred facility type and locations where technically feasible, even if it results in an increase in the number of facilities or at a higher cost. A lesser preferred facility type may be

permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact or is more technically necessary than the use of more preferred facilities.

3. Disfavored Facilities:

- a. Any site within a visual corridor as identified in the village master plan;
- b. Sites on ridgelines exposed to view from Mountain View Boulevard or Highway 64; and
- c. Sites adjacent to or very close to residential areas.

4. Design Requirements:

- a. Height: New facilities shall not exceed one hundred fifty feet (150') in height.
- b. Setback: The setback for towers is one hundred five percent (105%) of the tower height from all property lines; or setback may be reduced if there is a dedicated "fall zone" easement on adjacent properties; or setback may be thirty percent (30%) of tower height if the registered engineer who designed the tower can prove that in case of failure, the tower would be contained on site. Guys and accessory buildings must meet O-1 setbacks.
- c. Colors And Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. All associated structures must be painted or otherwise match the same color as the tower.
- d. Fencing: The tower and equipment building shall be fenced unless the tower is a flagpole, utility pole, or a camouflaged facility.
- e. Lighting: Lighting on any tower is prohibited unless required by the federal aviation administration or by other applicable state or federal requirements. Motion detecting lighting may be used around equipment or accessory structures for security purposes.
- f. Signs: Signage is limited to small nonilluminated identification and warning signs.

5. Terms Of Permit: Renewal of a conditional use permit shall be based on the compliance with the conditions of approval. (Ord. 2002-02, 1-17-2002; amd. 2003 Code; Ord. 2005-01, 1-20-2005; Ord. 2013-07, 8-13-2013)

9-10E-3: CONDITIONAL USES:

Wireless telecommunication towers:

1. Area Preservation: Preferred site location and development of wireless telecommunication facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. Where technically feasible, new facilities shall use the most preferred facility type. The order of preference for new facilities is as follows from most preferred to least preferred:

- a. Colocation on an existing tower;
- b. Antennas attached to existing structures such as buildings, light poles, and utility poles;
- c. Concealed or camouflaged facilities;
- d. Colocated with water tower or other public facilities;
- e. New towers/facilities under fifty feet (50') in height;
- f. New towers/facilities under one hundred feet (100') in height; and
- g. New towers/facilities over one hundred feet (100') in height.

2. Preferred Type And Location: New facilities shall use the most preferred facility type and locations where technically feasible, even if it results in an increase in the number of facilities or at a higher cost. A lesser preferred facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact or is more technically necessary than the use of more preferred facilities.

3. Disfavored Facilities:

- a. Any site within a visual corridor as identified in the village master plan;
- b. Sites on ridgelines exposed to view from Mountain View Boulevard or Highway 64; and
- c. Sites adjacent to or very close to residential areas.

4. Design Requirements:

- a. Height: New facilities shall not exceed one hundred fifty feet (150') in height.
- b. Setback: The setback for towers is one hundred five percent (105%) of the tower height from all property lines; or setback may be reduced if there is a dedicated "fall zone" easement on adjacent properties; or setback may be thirty percent (30%) of tower height if the registered engineer who designed the tower can prove that in case of failure, the tower

would be contained on site. Guys and accessory buildings must meet O-1 setbacks.

c. Colors And Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. All associated structures must be painted or otherwise match the same color as the tower.

d. Fencing: The tower and equipment building shall be fenced unless the tower is a flagpole, utility pole, or a camouflaged facility.

e. Lighting: Lighting on any tower is prohibited unless required by the federal aviation administration or by other applicable state or federal requirements. Motion detecting lighting may be used around equipment or accessory structures for security purposes.

f. Signs: Signage is limited to small nonilluminated identification and warning signs.

5. Terms Of Permit: Renewal of a conditional use permit shall be based on the compliance with the conditions of approval. (Ord. 2002-02, 1-17-2002; amd. 2003 Code; Ord. 2005-01, 1-20-2005; Ord. 2013-07, 8-13-2013)

9-10F-4: DEVELOPMENT STANDARDS:

C. Minimum Front Lot Width: Sixty feet (60'). No minimum lot width shall be required for bts that comply with minimum state requirements for water and wastewater standards.

9-11A-4: DEVELOPMENT STANDARDS:

B. Minimum Front Lot Width: Fifty feet (50'). No minimum lot width shall be required for bts that comply with minimum state requirements for water and wastewater standards.

D. Minimum Principal Building Floor Area: One thousand two hundred (1,200) square feet (footprint-1,000 square feet) No minimum required floor area for dwelling units.

9-11B-3 CONDITIONAL USES:

Cannabis Manufacturing.

1. The property so used shall be a minimum of 300 feet from the nearest church, day care, school use, residence or residentially zoned property. These distances shall be measured from property line to property line, without regard to the route of normal traffic. A residential use shall only be considered if it is a separately platted main use.

2. Buildings in which a cannabis manufacturing use is located shall not be painted in garnish colors or any other fashion to serve the same purpose as a sign.

9-11B-4: DEVELOPMENT STANDARDS:

C. Minimum Floor Area: One thousand two hundred (1,200) square feet for each building. No minimum required floor area for dwelling units.

9-11C-3: CONDITIONAL USES:

Cannabis Manufacturing.

1. Regardless of the underlying zoning district, the property so used shall be a minimum of 300 feet from the nearest church, day care, school use, or residentially zoned property. These distances shall be measured from property line to property line, without regard to the route of normal traffic.

2. Buildings in which a cannabis manufacturing use is located shall not be painted in garish colors or any other fashion to serve the same purpose as a sign.

9-11C-4: DEVELOPMENT STANDARDS:

C. Minimum Front Lot Width: Fifty feet (50'). No minimum lot width shall be required for bts that comply with minimum state requirements for water and wastewater standards.

Title 9, Chapter 12

9-12A-3: CONDITIONAL USES:

None at this time.

Wireless telecommunication towers:

9. Area Preservation: Preferred site location and development of wireless telecommunication facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. Where technically feasible, new facilities shall use the most preferred facility type. The order of preference for new facilities is as follows from most preferred to least preferred:

- a. Colocation on an existing tower;
- b. Antennas attached to existing structures such as buildings, light poles, and utility poles;
- c. Concealed or camouflaged facilities;
- d. Colocated with water tower or other public facilities;
- e. New towers/facilities under fifty feet (50') in height;
- f. New towers/facilities under one hundred feet (100') in height; and
- g. New towers/facilities over one hundred feet (100') in height.

2. Preferred Type And Location: New facilities shall use the most preferred facility type and locations where technically feasible, even if it results in an increase in the number of facilities or at a higher cost. A lesser preferred facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact or is more technically necessary than the use of more preferred facilities.

3. Disfavored Facilities:

- a. Any site within a visual corridor as identified in the village master plan;
- b. Sites on ridgelines exposed to view from Mountain View Boulevard or Highway 64; and
- c. Sites adjacent to or very close to residential areas.

9. Design Requirements:

- a. Height: New facilities shall not exceed one hundred fifty feet (150') in height.
- b. Setback: The setback for towers is one hundred five percent (105%) of the tower height from all property lines; or setback may be reduced if there is a dedicated "fall zone" easement on adjacent properties; or setback may be thirty percent (30%) of tower height if the registered engineer who designed the tower can prove that in case of failure, the tower would be contained on site. Guys and accessory buildings must meet O-1 setbacks.
- c. Colors And Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. All associated structures must be painted or otherwise match the same color as the tower.
- d. Fencing: The tower and equipment building shall be fenced unless the tower is a flagpole, utility pole, or a camouflaged facility.
- e. Lighting: Lighting on any tower is prohibited unless required by the federal aviation administration or by other applicable state or federal requirements. Motion detecting lighting may be used around equipment or accessory structures for security purposes.
- f. Signs: Signage is limited to small nonilluminated identification and warning signs.

5. Terms Of Permit: Renewal of a conditional use permit shall be based on the compliance with the conditions of approval. (Ord. 2002-02, 1-17-2002; amd. 2003 Code; Ord. 2005-01, 1-20-2005; Ord. 2013-07, 8-13-2013)

9-12A-4: DEVELOPMENT STANDARDS:

C. Minimum Floor Area: One thousand two hundred (1,200) square feet for each building; minimum footprint is one

thousand (1,000) square feet. No minimum required floor area for dwelling units.

9-12B-3: CONDITIONAL USES:

Wireless telecommunication towers:

1. Area Preservation: Preferred site location and development of wireless telecommunication facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. Where technically feasible, new facilities shall use the most preferred facility type. The order of preference for new facilities is as follows from most preferred to least preferred:

- a. Colocation on an existing tower;
- b. Antennas attached to existing structures such as buildings, light poles, and utility poles;
- c. Concealed or camouflaged facilities;
- d. Colocated with water tower or other public facilities;
- e. New towers/facilities under fifty feet (50') in height;
- f. New towers/facilities under one hundred feet (100') in height; and
- g. New towers/facilities over one hundred feet (100') in height.

2. Preferred Type And Location: New facilities shall use the most preferred facility type and locations where technically feasible, even if it results in an increase in the number of facilities or at a higher cost. A lesser preferred facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact or is more technically necessary than the use of more preferred facilities.

3. Disfavored Facilities:

- a. Any site within a visual corridor as identified in the village master plan;
- b. Sites on ridgelines exposed to view from Mountain View Boulevard or Highway 64; and
- c. Sites adjacent to or very close to residential areas.

4. Design Requirements:

- a. Height: New facilities shall not exceed one hundred fifty feet (150') in height.
- b. Setback: The setback for towers is one hundred five percent (105%) of the tower height from all property lines; or setback may be reduced if there is a dedicated "fall zone" easement on adjacent properties; or setback may be thirty percent (30%) of tower height if the registered engineer who designed the tower can prove that in case of failure, the tower would be contained on site. Guys and accessory buildings must meet O-1 setbacks.
- c. Colors And Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. All associated structures must be painted or otherwise match the same color as the tower.
- d. Fencing: The tower and equipment building shall be fenced unless the tower is a flagpole, utility pole, or a camouflaged facility.
- e. Lighting: Lighting on any tower is prohibited unless required by the federal aviation administration or by other applicable state or federal requirements. Motion detecting lighting may be used around equipment or accessory structures for security purposes.
- f. Signs: Signage is limited to small nonilluminated identification and warning signs.

5. Terms Of Permit: Renewal of a conditional use permit shall be based on the compliance with the conditions of approval. (Ord. 2002-02, 1-17-2002; amd. 2003 Code; Ord. 2005-01, 1-20-2005; Ord. 2013-07, 8-13-2013)

9-12B-3: DEVELOPMENT STANDARDS:

C. Minimum Floor Area: One thousand two hundred (1,200) square feet for each building; minimum footprint is one thousand (1,000) square feet. No minimum required floor area for dwelling units.

E. Maximum Building Height: Forty five feet (40' 45').

9-12C-3: CONDITIONAL USES:

Wireless telecommunication towers:

1. Area Preservation: Preferred site location and development of wireless telecommunication facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. Where technically feasible, new facilities shall use the most preferred facility type. The order of preference for new facilities is as follows from most preferred to least preferred:

- a. Colocation on an existing tower;
- b. Antennas attached to existing structures such as buildings, light poles, and utility poles;
- c. Concealed or camouflaged facilities;
- d. Colocated with water tower or other public facilities;
- e. New towers/facilities under fifty feet (50') in height;
- f. New towers/facilities under one hundred feet (100') in height; and
- g. New towers/facilities over one hundred feet (100') in height.

2. Preferred Type And Location: New facilities shall use the most preferred facility type and locations where technically feasible, even if it results in an increase in the number of facilities or at a higher cost. A lesser preferred facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact or is more technically necessary than the use of more preferred facilities.

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- b. Sites on ridgelines exposed to view from Mountain View Boulevard or Highway 64; and
- c. Sites adjacent to or very close to residential areas.

4. Design Requirements:

- a. Height: New facilities shall not exceed one hundred fifty feet (150') in height.
- b. Setback: The setback for towers is one hundred five percent (105%) of the tower height from all property lines; or setback may be reduced if there is a dedicated "fall zone" easement on adjacent properties; or setback may be thirty percent (30%) of tower height if the registered engineer who designed the tower can prove that in case of failure, the tower would be contained on site. Guys and accessory buildings must meet O-1 setbacks.
- c. Colors And Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. All associated structures must be painted or otherwise match the same color as the tower.
- d. Fencing: The tower and equipment building shall be fenced unless the tower is a flagpole, utility pole, or a camouflaged facility.
- e. Lighting: Lighting on any tower is prohibited unless required by the federal aviation administration or by other applicable state or federal requirements. Motion detecting lighting may be used around equipment or accessory structures for security purposes.
- f. Signs: Signage is limited to small nonilluminated identification and warning signs.

5. Terms Of Permit: Renewal of a conditional use permit shall be based on the compliance with the conditions of approval. (Ord. 2002-02, 1-17-2002; amd. 2003 Code; Ord. 2005-01, 1-20-2005; Ord. 2013-07, 8-13-2013)

9-12D-4: CONDITIONAL USES:

Wireless telecommunication towers:

1. Area Preservation: Preferred site location and development of wireless telecommunication facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. Where technically feasible, new facilities shall use the most preferred facility type. The order of preference for new facilities is as follows from most preferred to least preferred:

- a. Colocation on an existing tower;
- b. Antennas attached to existing structures such as buildings, light poles, and utility poles;
- c. Concealed or camouflaged facilities;
- d. Colocated with water tower or other public facilities;
- e. New towers/facilities under fifty feet (50') in height;

f. New towers/facilities under one hundred feet (100') in height; and

g. New towers/facilities over one hundred feet (100') in height.

2. Preferred Type And Location: New facilities shall use the most preferred facility type and locations where technically feasible, even if it results in an increase in the number of facilities or at a higher cost. A lesser preferred facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact or is more technically necessary than the use of more preferred facilities.

3. Disfavored Facilities:

a. Any site within a visual corridor as identified in the village master plan;

b. Sites on ridgelines exposed to view from Mountain View Boulevard or Highway 64; and

c. Sites adjacent to or very close to residential areas.

4. Design Requirements:

a. Height: New facilities shall not exceed one hundred fifty feet (150') in height.

b. Setback: The setback for towers is one hundred five percent (105%) of the tower height from all property lines; or setback may be reduced if there is a dedicated "fall zone" easement on adjacent properties; or setback may be thirty percent (30%) of tower height if the registered engineer who designed the tower can prove that in case of failure, the tower would be contained on site. Guys and accessory buildings must meet O-1 setbacks.

c. Colors And Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. All associated structures must be painted or otherwise match the same color as the tower.

d. Fencing: The tower and equipment building shall be fenced unless the tower is a flagpole, utility pole, or a camouflaged facility.

e. Lighting: Lighting on any tower is prohibited unless required by the federal aviation administration or by other applicable state or federal requirements. Motion detecting lighting may be used around equipment or accessory structures for security purposes.

f. Signs: Signage is limited to small nonilluminated identification and warning signs.

5. Terms Of Permit: Renewal of a conditional use permit shall be based on the compliance with the conditions of approval. (Ord. 2002-02, 1-17-2002; amd. 2003 Code; Ord. 2005-01, 1-20-2005; Ord. 2013-07, 8-13-2013)

9-12E-3: CONDITIONAL USES:

Wireless telecommunication towers:

1. Area Preservation: Preferred site location and development of wireless telecommunication facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. Where technically feasible, new facilities shall use the most preferred facility type. The order of preference for new facilities is as follows from most preferred to least preferred:

a. Colocation on an existing tower;

b. Antennas attached to existing structures such as buildings, light poles, and utility poles;

c. Concealed or camouflaged facilities;

d. Colocated with water tower or other public facilities;

e. New towers/facilities under fifty feet (50') in height;

f. New towers/facilities under one hundred feet (100') in height; and

g. New towers/facilities over one hundred feet (100') in height.

2. Preferred Type And Location: New facilities shall use the most preferred facility type and locations where technically feasible, even if it results in an increase in the number of facilities or at a higher cost. A lesser preferred facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact or is more technically necessary than the use of more preferred facilities.

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c. Sites adjacent to or very close to residential areas.

4. Design Requirements:

a. Height: New facilities shall not exceed one hundred fifty feet (150') in height.

b. Setback: The setback for towers is one hundred five percent (105%) of the tower height from all property lines; or setback may be reduced if there is a dedicated "fall zone" easement on adjacent properties; or setback may be thirty percent (30%) of tower height if the registered engineer who designed the tower can prove that in case of failure, the tower would be contained on site. Guys and accessory buildings must meet O-1 setbacks.

c. Colors And Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. All associated structures must be painted or otherwise match the same color as the tower.

d. Fencing: The tower and equipment building shall be fenced unless the tower is a flagpole, utility pole, or a camouflaged facility.

e. Lighting: Lighting on any tower is prohibited unless required by the federal aviation administration or by other applicable state or federal requirements. Motion detecting lighting may be used around equipment or accessory structures for security purposes.

f. Signs: Signage is limited to small nonilluminated identification and warning signs.

5. Terms Of Permit: Renewal of a conditional use permit shall be based on the compliance with the conditions of approval. (Ord. 2002-02, 1-17-2002; amd. 2003 Code; Ord. 2005-01, 1-20-2005; Ord. 2013-07, 8-13-2013)

9-12F-3: CONDITIONAL USES:

Wireless telecommunication towers:

1. Area Preservation: Preferred site location and development of wireless telecommunication facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. Where technically feasible, new facilities shall use the most preferred facility type. The order of preference for new facilities is as follows from most preferred to least preferred:

a. Colocation on an existing tower;

b. Antennas attached to existing structures such as buildings, light poles, and utility poles;

c. Concealed or camouflaged facilities;

d. Colocated with water tower or other public facilities;

e. New towers/facilities under fifty feet (50') in height;

f. New towers/facilities under one hundred feet (100') in height; and

g. New towers/facilities over one hundred feet (100') in height.

2. Preferred Type And Location: New facilities shall use the most preferred facility type and locations where technically feasible, even if it results in an increase in the number of facilities or at a higher cost. A lesser preferred facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact or is more technically necessary than the use of more preferred facilities.

3. Disfavored Facilities:

a. Any site within a visual corridor as identified in the village master plan;

b. Sites on ridgelines exposed to view from Mountain View Boulevard or Highway 64; and

c. Sites adjacent to or very close to residential areas.

4. Design Requirements:

a. Height: New facilities shall not exceed one hundred fifty feet (150') in height.

b. Setback: The setback for towers is one hundred five percent (105%) of the tower height from all property lines; or setback may be reduced if there is a dedicated "fall zone" easement on adjacent properties; or setback may be thirty percent (30%) of tower height if the registered engineer who designed the tower can prove that in case of failure, the tower would be contained on site. Guys and accessory buildings must meet O-1 setbacks.

c. Colors And Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. All associated structures must be painted or otherwise match the same color as the tower.

d. Fencing: The tower and equipment building shall be fenced unless the tower is a flagpole, utility pole, or a camouflaged facility.

e. Lighting: Lighting on any tower is prohibited unless required by the federal aviation administration or by other applicable state or federal requirements. Motion detecting lighting may be used around equipment or accessory structures for security

purposes.

f. Signs: Signage is limited to small nonilluminated identification and warning signs.

5. Terms Of Permit: Renewal of a conditional use permit shall be based on the compliance with the conditions of approval. (Ord. 2002-02, 1-17-2002; amd. 2003 Code; Ord. 2005-01, 1-20-2005; Ord. 2013-07, 8-13-2013)

PASSED, APPROVED AND ADOPTED this 24 day of December, 2024.

Mayor BJ Lindsey

Attest:

Victor Rocky Lira, Village Clerk

ORDINANCE NO 2024-05

AN ORDINANCE CREATING TITLE 11 OF THE VILLAGE CODE

WHEREAS a viable workforce housing program has been an ongoing goal for the Village; and

WHEREAS the Village has created a Workforce Housing Committee to prepare an ordinance for Council consideration; and

WHEREAS a housing ordinance is required by the State of New Mexico for the Village to participate in funding options for housing projects and exemptions from the anti-donation clause;

NOW THEREFORE BE IT ORDAINED by the Angel Fire Village Council create Title 11 to address the housing needs of the Village.

Section 1. SHORT TITLE.

This article may be cited as the "Affordable Housing Ordinance." (Ord. No. 2024-05)

Section 2. PURPOSE.

This ordinance is adopted to implement the Village's Affordable Housing Plan. In accordance with the N.M. Constitution, Article IX, §14, the Affordable Housing Act, NMSA 1978, §6-27-1 et seq. (the "Act"), NMMFA Rules, the purpose of the Affordable Housing Ordinance is to:

1. Establish procedures to ensure that State and local housing assistance grantees are Qualifying Grantees who meet the requirements of the Act and the Rules promulgated pursuant to the Act both at the time of the award and throughout the term of any grant or loan under the Program;
2. Establish an application and award timetable for State housing assistance grants or loans to permit the selection of the

Qualifying Grantee(s) by.

3. Create an evaluation process to determine in conjunction with the MFA:
 - a. The financial and management stability of the Applicant;
 - b. The demonstrated commitment of the Applicant to the community;
 - c. A cost-benefit analysis of the project proposed by the Applicant;
 - d. The benefits to the community of a proposed project;
 - e. The type or amount of assistance to be provided;
 - f. The scope of the Affordable Housing Project;
 - g. Any substantive or matching contribution by the Applicant to the proposed project;
 - h. A performance schedule for the Qualifying Grantee with performance criteria; and
 - i. Any other rules or procedures the Village believes are necessary for a full review and evaluation of the Applicant and the Application or which the MFA believes is necessary for a full review of the Village's evaluation of the Applicant;
4. Require long-term affordability of the Village's Affordable Housing Projects so that a project cannot be sold shortly after completion and taken out of the affordable housing market;
5. Require that a grant or loan for a project must impose a contractual obligation on the Qualifying Grantee that the affordable housing units in any project be occupied by persons of low or moderate income as defined in this Ordinance;
6. Provide for adequate security against the loss of public funds or property in the event that the Qualifying Grantee abandons or otherwise fails to complete the project;
7. Require review and approval of a housing grant project budget by the Village and/or the MFA before any expenditure of grant funds or transfer of granted property;
8. Require that a condition of grant or loan approval be proof of compliance with all applicable State and local laws, rules and ordinances;
9. Provide definitions for "low-income" and "moderate-income" and set out requirements for verification of income levels; and
10. Provide the city with a valid affordable housing program; and
11. Require that the Village enter into a contract with the Qualifying Grantee consistent with the Act, which contract shall include remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee and which contract shall be subject to the review of the MFA in its discretion;

Section 3. DEFINITIONS.

The following words and terms shall have the following meanings.

"Act" shall mean the Affordable Housing Act, NMSA 1978, §6-27-1 et seq.

"Affordable" shall mean consistent with minimum rent and/or income limitations set forth in the MFA Act and in guidelines established by MFA.

"Affordable Housing" means residential housing primarily for persons or households of low or moderate income.

"Affordable Housing Funds" shall mean any or all funds awarded or to be awarded, loaned or otherwise distributed under the Act.

"Affordable Housing Plan" or "Plan" shall mean a plan pursuant to detailed research and analysis of the community and housing profile, including a review of land use and policy regarding land use, which produces a housing needs assessment for low- and moderate-income households in that locality.

"Affordable Housing Program" or "Program" shall mean any programs the Village establishes pursuant to the Act.

"Affordable Housing Project" or "Project" shall mean any work or undertaking, whether new construction, acquisition of existing Residential Housing, remodeling, improvement, rehabilitation or conversion, which may be developed in one or more phases, as approved by the Village and/or the MFA for the primary purposes as allowed by the Act.

"Affordability Period" shall mean:

1. If the fair market value of any housing assistance grant or the total amount of affordable housing funds that have been awarded, loaned, donated, or otherwise conveyed to the qualifying grantee is from one-dollar (\$1.00) to fourteen thousand nine hundred ninety-nine dollars and ninety-nine cents (\$14,999.99), then the affordability period shall be not less than five (5) years.
2. If the fair market value of any housing assistance grant or the total amount of affordable housing funds is from fifteen thousand dollars (\$15,000.00) up to and including forty thousand dollars (\$40,000.00), then the affordability period shall be not less than ten (10) years.
3. If the fair market value of any housing assistance grant or the total amount of affordable housing funds is greater than forty thousand dollars (\$40,000.00) up to and including one hundred thousand dollars (\$100,000.00), then the affordability period shall be not less than fifteen (15) years.
4. If the fair market value of any housing assistance grant or the total amount of affordable housing funds is greater than one hundred thousand dollars (\$100,000.00), then the affordability period shall be not less than twenty (20) years.

"Applicant" shall mean, an individual, a governmental housing agency, regional housing authority, a for-profit organization, including a corporation, limited liability company; partnership, joint venture, syndicate, or association or a non-profit organization meeting the appropriate criteria set by the Village and/or the MFA.

"Application" shall mean an application to participate in one or more Affordable Housing Projects or Programs under the Act submitted by an Applicant to the Village.

"Builder" shall mean an individual or entity licensed as a general contractor to construct Residential Housing in the State that satisfies the requirements of a Qualifying Grantee and has been approved by the Village and/or the MFA to participate in an Affordable Housing Program. The term "Builder" shall also include an individual or entity that satisfies the requirements of a Qualifying Grantee and has been approved by the Village and/or the MFA to participate in an Affordable Housing Program, who is not licensed as a general contractor in the State, provided such individual or entity contracts with a general contractor licensed in the State to construct Residential Housing.

"Building" shall mean a structure capable of being renovated or converted into Affordable Housing or a structure that is to be demolished and is located on land donated for use in connection with an Affordable Housing Project.

"Village" shall mean the Village of Angel Fire, New Mexico, a unit of local government under the Constitution and laws of the State of New Mexico.

"Congregate Housing Facility" shall mean Residential Housing designed for occupancy by more than four Persons of Low- or Moderate-Income living independently of each other. The facility may contain group dining, recreational, health care or other communal living facilities and each unit in a Congregate Housing Facility shall contain at least its own living, sleeping, and bathing facilities.

"Federal Government" shall mean the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

"Household" shall mean one or more persons occupying a housing unit.

"Housing Assistance Grant" means the donation, provision or payment by the Village of:

1. Land upon which affordable housing will be constructed; or
2. An existing Building that will be renovated, converted or demolished and reconstructed as Affordable Housing; or
3. The costs acquisition, development, construction, financing, and operating or owning affordable housing; or
4. The costs of financing or infrastructure necessary to support Affordable Housing.

"HUD" shall mean the United States Department of Housing and Urban Development.

"Infrastructure" shall mean Infrastructure Improvements and Infrastructure Purposes.

"Infrastructure Improvement" includes, but is not limited to:

1. Sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;
2. Drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;
3. Water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;
4. Areas for motor vehicle use for road access, ingress, egress and parking;
5. Trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for access, ingress, egress and parking;
6. Parks, recreational facilities and open space areas for the use of residents for entertainment, assembly and recreation;
7. Landscaping, including earthworks, structures, plants, trees and related water delivery systems;
8. Electrical transmission and distribution facilities;
9. Natural gas distribution facilities;
10. Lighting systems;
11. Cable or other telecommunications lines and related equipment;
12. Traffic control systems and devices, including signals, controls, markings and signs;
13. Inspection, construction management and related costs in connection with the furnishing of the items listed in this subsection; and
14. Heating, air conditioning and weatherization facilities, systems or services, and energy efficiency improvements that are affixed to real property.

"Infrastructure Purpose" shall mean:

1. Planning, design, engineering, construction, acquisition or installation of Infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of the Infrastructure, provided the Village may determine it appropriate to reduce or waive building permit fees, sewer and water hook-up fees and other fees with respect to an Affordable Housing Project for which Affordable Housing Funds and/or Housing Assistance Grants are awarded, loaned, donated or otherwise distributed under the Act;
2. Acquiring, converting, renovating or improving existing facilities for Infrastructure, including facilities owned, leased or installed by the owner;
3. Acquiring interests in real property or water rights for infrastructure, including interests of the owner; and
4. Incurring expenses incident to and reasonably necessary to carry out the purposes specified in this subsection.

"MFA" shall mean the New Mexico Mortgage Finance Authority.

"MFA Act" shall mean the Mortgage Finance Authority Act, enacted as Chapter 303 of the Laws of 1975 of the State of New Mexico, as amended (being Sections 58-18-1 through 58-18-27, inclusive, N.M.S.A (1978), as amended).

"Mortgage" shall mean a mortgage, mortgage deed, deed of trust or other instrument creating a lien, subject only to title exceptions as may be acceptable to the Village and/or the MFA, on a fee interest in real property located within the State or on a leasehold interest that has a remaining term at the time of computation that exceeds or is renewable at the option of the lessee until after the maturity day of the Mortgage Loan.

"Mortgage Lender" shall mean any bank or trust company, mortgage company, mortgage banker, national banking association, savings bank, savings and loan association, credit union, building and loan association and any other lending institution; provided that the mortgage lender maintains an office in the State, is authorized to make mortgage loans in the State and is approved by the Village and/or the MFA and either the Federal Housing Authority, Veterans' Affairs, Federal National Mortgage Association (now known as Fannie Mae), or Federal Home Loan Mortgage Corporation (now known as Freddie Mac).

"Mortgage Loan" shall mean a financial obligation secured by a Mortgage, including a Mortgage Loan for a Project.

"Multiple Family Housing Project" shall mean Residential Housing that is designed for occupancy by more than four persons or families living independently of each other or living in a Congregate Housing Facility, at least sixty percent (60%) of whom are Persons of Low- or Moderate-Income, including without limitation Persons of Low- or Moderate-Income who are elderly and handicapped as determined by the Village and/or the MFA, provided that the percentage of low-income persons and families shall be at least the minimum, if any, required by federal tax law.

"Multi-Family Housing Program" shall mean a program involving a Congregate Housing Facility, a Multiple Family Housing Project or a Transitional Housing Facility.

"Ordinance" shall mean this ordinance (No. 2024-05).

"Persons of Low- or Moderate-Income" shall mean persons and families who are determined to lack sufficient income to pay enough to cause private enterprise to build an adequate supply of decent, safe and sanitary residential housing in the Village and whose incomes are below the income levels established by the MFA and the Plan to be in need of the assistance made available by the Act, taking into consideration, without limitation, such factors as defined under the Act. For purposes of this definition, the word "families" shall mean a group of persons consisting of, but not limited to, the head of a household; his or her spouse, if any; and children, if any, who are allowable as personal exemptions for Federal income tax purposes. In accordance with the Plan, persons of low- and moderate-income who are eligible for assistance in accordance with the plan are as follows:

1. Persons of low-income shall mean persons in households with annual gross incomes below 80% of Area Median Income for Village as approved and published each year by MFA and verified by theVillage.
2. Persons of Moderate Income shall mean persons in households with annual gross incomes between 80% and 120% of Area Median Income for Village as approved and published each year by MFA and verified by theVillage.
3. For purposes of this definition, "annual gross income" shall mean the annual anticipated income from assets, regular cash or noncash contributions, and any other resources and benefits determined to be income by HUD, as defined in 24 CFR Section 5.609.

"Policies and Procedures" shall mean Policies and Procedures of the MFA, including but not limited to, Mortgage Loan purchasing, selling, servicing and reservation procedures, which the MFA may update and revise from time to time as the MFA deems appropriate.

"Public Service Agencies" shall include, but are not limited to, any entities that support Affordable Housing and which believe that the program or project proposed by the Applicant is worthy and advisable, but which are not involved, either directly or indirectly, in the Affordable Housing Program or Project for which the Applicant is applying.

"Qualifying Grantee" means:

1. An individual who is qualified to receive assistance pursuant to the Act and is approved by theVillage; and
2. A governmental housing agency, regional housing authority, corporation, a limited liability company, partnership, joint

venture, syndicate, association or a non-profit organization that:

- a. Is organized under State or local laws and can provide proof of such organization;
- b. If a non-profit organization, has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and
- c. Is approved by the Village.

"Recertification" shall mean the recertification of Applicants and/or Qualifying Grantees participating in any Affordable Housing Programs or in any programs under the Act as determined necessary from time to time by the Village and/or the MFA.

"Rehabilitation" shall mean the substantial renovation or reconstruction of an existing single-family residence or a Multi-Family Housing Project, which complies with requirements established by the MFA. Rehabilitation shall not include routine or ordinary repairs, improvements or maintenance, such as interior decorating, remodeling or exterior painting, except in conjunction with other substantial renovation or reconstruction.

"Residential Housing" shall mean any Building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more Households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential Housing" includes congregate housing, manufactured homes and housing intended to provide or providing transitional or temporary housing for homeless persons.

"Residential Use" shall mean that the structure or the portion of the structure to benefit from the Affordable Housing Funds or Housing Assistance Grant is designed primarily for use as the principal residence of the occupant or occupants and shall exclude vacation or recreational homes.

"RFP" shall mean any request for proposals made by the Village.

"Rules" shall mean the New Mexico Mortgage Finance Authority Affordable Housing Rules adopted pursuant to Section 6-27-8(B) NMSA 1978.

"State" shall mean the State of New Mexico.

"Transitional Housing Facility" shall mean residential housing that is designed for temporary or transitional occupancy by Persons of Low- or Moderate-Income, or with special needs.

Section 4. GENERAL REQUIREMENTS.

The following requirements shall apply to all Housing Assistance Grants and/or Affordable Housing Funds awarded, loaned or otherwise distributed by the Village under the Act to a Qualifying Grantee.

1. Request for Proposals. The Village, in its discretion, may issue one or more RFPs to solicit applications from Applicants or shall otherwise identify a Qualifying Grantee for the use of any Affordable Housing Funds or Housing Assistance Grants to be awarded, loaned, donated or otherwise distributed under the Act.
2. Applicant Eligibility. The following Applicants are eligible under the Act to apply for Affordable Housing Funds or a Housing Assistance Grant to provide housing or related services to Persons of Low- or Moderate-Income in the community:
 - a. All individuals who are qualified to receive assistance pursuant to the Act, the Rules, and this Ordinance that are approved by the Village;
 - b. All regional housing authorities and any governmental housing agencies;
 - c. All for-profit organizations, including any corporation, limited liability company, partnership, joint venture, syndicate or association;
 - d. All non-profit organizations meeting the following requirements:

- i. A primary mission of the non-profit organization must be to provide housing or housing-related services to Persons of Low- or Moderate-Income;
- ii. The non-profit organization must have received its 501(c)(3) designation prior to submitting an application;
- iii. Have no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- e. All non-individual Applicants must:
 - i. Be organized under State or local laws and can provide proof of such organization and be approved by the Village;
 - ii. Have a functioning accounting system that is operated in accordance with generally accepted accounting principles or has designated an entity that will maintain such an accounting system consistent with generally accepted accounting principles;
 - iii. Have among its purposes significant activities related to providing housing or services to Persons or Households of Low or Moderate Income; and
 - iv. Have no significant outstanding or unresolved monitoring findings from the Village, the MFA, or its most recent independent financial audit, or if it has any such findings, it has a certified letter from the Village, the MFA, or auditor stating that the findings are in the process of being resolved.

3. Applications.

- a. Process for Applying. Applicants wishing to apply for a Housing Assistance Grant, including the use of any Affordable Housing Funds, or to participate in any Affordable Housing Program are required to submit to the Village the following (as applicable):
 - i. One original Application together with all required schedules, documents, or such other information which may be required by the Village or in any RFP which may have been issued by the Village;
 - ii. A proposal describing the nature and scope of the Affordable Housing Project proposed by the Applicant and for which the Applicant is applying for funds or a grant under the Act, and which documents the need for the requested funds or grant, describes the type and/or amount of assistance which the Applicant proposes to provide to Persons of Low- or Moderate-Income and documents the consistency of the proposal with the Village's Affordable Housing Plan;
 - iii. Executive summary and project narrative(s) that address the evaluation criteria set forth in any RFP issued by the Village for the Affordable Housing Funds or the Housing Assistance Grant for which the Applicant is applying;
 - iv. A proposed budget for the Affordable Housing Project for which the Applicant is applying for Affordable Housing Funds or for a Housing Assistance Grant;
 - v. Current independent financial audit;
 - vi. If the Applicant is a non-profit organization:
 - 1. Proof of 501(c)(3) tax status;
 - 2. Documentation that confirms that no part of its net earnings inures to the benefit of any member, founder, contributor or individual;
 - vii. If an Applicant is a legal entity, including a non-profit organization:
 - 1. A current annual budget for the Applicant, including all sources and uses of funds not just those related to relevant programs and/or a current annual budget only for the program for which the Applicant is applying for a Housing Assistance Grant, or as otherwise may be required by the Village and/or the MFA in its discretion;
 - 2. An approved mission statement that the Applicant has among its purposes significant activities related to providing housing or housing related services to Persons or Households of Low or Moderate Income;
 - 3. A list of members of the Applicant's current board of directors or other governing body, including designated homeless participation, where required by the Village;
 - 4. Evidence (or a certification as may be allowed by the Village) that the Applicant has a functioning accounting system that is operated in accordance with generally accepted accounting principles or has a designated entity that will maintain such an accounting system consistent with generally accepted accounting principles;
 - 5. Evidence that the Applicant has no significant outstanding or unresolved monitoring findings from the Village, the MFA, or its most recent independent financial audit; or if it has any significant outstanding or unresolved monitoring findings from the Village, the MFA or its most recent independent financial audit, it has a certified letter from the Village, the MFA or the auditor stating that the findings are in the process of being resolved;
 - 6. An organizational chart, including job titles and qualifications for the Applicant's employees or as otherwise may be required by the Village and/or the MFA in its discretion. Job descriptions may be submitted as appropriate;
 - 7. Documentation that the Applicant is duly organized under State or local law and certification that the Applicant is in good standing with any State authorities, including the Public Regulation Commission and the Secretary of State;

- viii. Information as may be required by the Village in order for it to determine the financial and management stability of the Applicant;
 - ix. Information as may be required by the Village in order for it to determine the demonstrated commitment of the Applicant to the community;
 - x. A completed cost-benefit analysis of the Affordable Housing Project proposed by the Applicant. Any cost-benefit analysis must include documentation that clearly evidences that there is a need for the Housing Assistance Grant being requested from the Village, that there is or will be a direct benefit from the project proposed by the Applicant to the community and/or to the purported beneficiaries of the project, consistent with the provisions of the Act, and that the Affordable Housing Project will meet the needs and affordability criteria defined in the Village 's Affordable Housing Plan;
 - xi. Information supporting the benefits to the community of the Affordable Housing Project proposed by the Applicant;
 - xii. Proof of substantive or matching funds or contributions and/or in-kind donations to the proposed Affordable Housing Project in connection with the Application for funds under the Act. Nothing contained herein shall prevent or preclude an Applicant from matching or using local, private, or federal funds in connection with a specific Housing Assistance Grant or a grant of Affordable Housing Funds under the Act;
 - xiii. Any certifications or other proof which the Village may require in order for the Village to confirm that the Applicant is in compliance with all applicable federal, State and local laws, rules and ordinances;
 - xiv. A verification signed by the Applicant before a notary public that the information provided, upon penalty of perjury, is true and correct to the best of the Applicant's information, knowledge and belief;
 - xv. Certifications as may be required by the Village and signed by chief executive officer, board president, or another authorized official of the Applicant;
 - xvi. Applicant shall submit adequate information, as required by the Village and/or MFA, of the Affordable Housing Project proposed by the Applicant. The information provided must clearly evidence the need for the subsidy, that the value of the housing assistance grant reduces the housing costs to Persons of Low- or Moderate-Income, and that there will be a direct benefit from the project proposed by the Applicant to the community and/or to the purported beneficiaries of the project, consistent with the provisions of the Act.
- b. Additional Requirements for Multi-Family Housing Projects Applicants who are submitting Applications in connection with a Multi-Family Housing Program. The Applicant must also submit to the Village following additional information:
- i. A verified certificate that, among other things:
 - 1. Identifies every Multi-Family Housing Program, including every assisted or insured project of HUD, RHS, FHA and any other state or local government housing finance agency in which such Applicant has been or is a principal;
 - 2. States that, except as shown on such certificate:
 - a. No mortgage on a project listed on such certificate has ever been in default, assigned to the Federal Government or foreclosed, nor has any mortgage relief by the mortgagee been given;
 - b. There has not been a suspension or termination of payments under any HUD assistance contract in which the Applicant has had a legal or beneficial interest;
 - c. Such Applicant has not been suspended, debarred or otherwise restricted by any department or agency of the Federal Government or any state government from doing business with such department or agency because of misconduct or alleged misconduct; and
 - d. The Applicant has not defaulted on an obligation covered by a surety or performance bond.

If such Applicant cannot certify to each of the above, such Applicant shall submit a signed statement to explain the facts and circumstances that such Applicant believes will explain the lack of certification. The Village may then determine if such Applicant is or is not qualified.

- ii. The experience of the Applicant in developing, financing and managing Multiple-Family Housing Projects; and
 - iii. Whether the Applicant has been found by the United States Equal Employment Opportunity Commission or the New Mexico Human Rights Commission to be in noncompliance with any applicable civil rights laws.
- c. Additional Requirements for Mortgage Lenders. If the Applicant is a Mortgage lender, the Village shall consider, among other things:
- i. The financial condition of the Applicant;
 - ii. The terms and conditions of any loans to be made;
 - iii. The aggregate principal balances of any loans to be made to each Applicant compared with the aggregate principal balances of the loans to be made to all other Applicants;

- iv. The Village's assessment of the ability of the Applicant or its designated servicer to act as originator and servicer of Mortgage Loans for any Multi-Family Housing Programs or other programs to be financed; and
- v. Previous participation by the Applicant in the MFA's programs and HUD, Federal Housing Authority or Rural Housing Service programs.
- d. Submission Procedure.
 - i. Time, Place and Method of Submission Delivery.
 - 1. If the Village has issued an RFP, all Applications must be received by the Village no later than the deadline set forth in the RFP; otherwise, all Applications must be received by the Village by the deadline the Village has established in connection with the respective award or grant. So that any Qualifying Grantees may be selected prior to January of the year in which any Housing Assistance Grant would be made, the Village shall issue any RFP's, solicit any Applications, or otherwise identify any Qualifying Grantees no later than October 15 of any year in order to allow sufficient time for prospective applicants to respond to any such RFP, solicitation, or otherwise, and further to allow the MFA not less than forty-five (45) days in which to review any such Applications or otherwise determine or confirm that an Applicant is a Qualifying Grantee under the Act and consistent with the Rules.
 - 2. Applications shall be submitted by Applicants to the Village in the form required by the Village and shall contain all information which is required by this Ordinance and any RFP which may have been issued.
 - ii. Additional Factors. The Application procedures shall take into consideration:
 - 1. Timely completion and submission to the Village of an Application or other appropriate response to any solicitation by the Village;
 - 2. Timely submission of all other information and documentation related to the program required by the Village as set forth in this Ordinance or as set forth in the Rules;
 - 3. Timely payment of any fees required to be paid to the Village at the time of submission of the Application; and
 - 4. Compliance with program eligibility requirements as set forth in the Act, the Rules and this Ordinance.
 - iii. Submission Format.
 - 1. Village forms or MFA forms (if available) must be used when provided and no substitutions will be accepted; however, attachments may be provided as necessary.
 - 2. An Applicant's failure to provide or complete any element of an application, including all requirements of the Village or as may be listed on any RFP, may result in the rejection of the Application prior to review.
 - 3. Illegible information, information inconsistent with other information provided in the application, and/or incomplete forms will be treated as missing information and evaluated accordingly.
 - 4. Village and the MFA reserve the right to request further information from any Applicant so long as the request is done fairly and does not provide any Applicant an undue advantage over another Applicant.
 - 5. The Village in its discretion may cancel any RFP or reject any or all proposals in whole or part submitted by any Applicant.
 - 6. Neither the Village nor the MFA shall be responsible for any expenses incurred by an Applicant in preparing and submitting an Application. However, the Village or the MFA, as applicable, may establish and collect fees from Applicants who file Applications. Notice that fees will be charged and the amount of any such fees shall be included by the Village or the MFA, as applicable, in any RFP or otherwise shall be advertised as part of the Application solicitation process.
 - e. Review by the Village. On receipt of an Application, the Village shall:
 - i. Determine whether the Application submitted by the Applicant is complete and responsive;
 - ii. Determine whether the Applicant is a Qualifying Grantee as defined herein and in the Act;
 - iii. Review and analyze whether the Applicant has shown a demonstrated need for activities to promote and provide affordable housing and related services to Persons of Low- or Moderate-Income and that the proposal is consistent with the Village's adopted Affordable Housing Plan;
 - iv. Determine whether the Applicant has demonstrated experience related to providing housing or services to Persons of Low- or Moderate-Income; as well as experience and/or the capacity of the Applicant to administer the Affordable Housing Program or Project for which the Applicant has applied;
 - v. Determine whether the Applicant's proposal provides a plan for coordinating with other service providers in the community; whether the Applicant's plan addresses how Persons of Low-Income or Moderate-Income in need of housing and/or housing-related supportive services can receive supportive services and referrals to federal, State and local resources; and, whether the Applicant's plan addresses outreach efforts to reach the population to be served as identified by the Village in any RFP, in the Affordable Housing Plan or otherwise;
 - vi. Determine whether the Applicant has support from Public Service Agencies, or such other support as may be required

by the Village and/or the MFA in its discretion, for its proposed services in the community;

- vii. Ascertain the amount of any matching funds or in-kind services specific to the program that may be utilized by the Applicant in connection with the program;
 - viii. Ascertain whether any local, private, or federal funds will be used by the Applicant in connection with the specific grant for which the Applicant is applying;
 - ix. Ascertain whether the Applicant has and can demonstrate the capability to manage the implementation of the Program for which the Applicant is applying;
 - x. If Applicant is a prior recipient of either a Housing Assistance Grant, Affordable Housing Funds and/or other Program funds, confirm that the Applicant had no outstanding findings or matters of non-compliance with program requirements from the Village or the MFA, as applicable or if it has any such findings, it has a certified letter from the Village, the MFA, or auditor stating that the findings are in the process of being resolved;
 - xi. If Applicant is a prior recipient of either a Housing Assistance Grant, Affordable Housing Funds and/or other Program funds, confirm that the Applicant reasonably committed and expended the funds under the prior Program and/or met anticipated production levels as set forth in any contract with the Village or the MFA, as applicable, for those prior Program funds;
 - xii. Evaluate the Applicant's proposal in part based upon the Applicant's current financial audit;
 - xiii. Evaluate the Applicant's proposed budget for the Project for which the Applicant is applying for Affordable Housing Funds or a Housing Assistance Grant which proposed budget must be approved by the Village before the Applicant can be approved as a Qualifying Grantee and any expenditure of grant funds under the Act or granted property is transferred to the Applicant;
 - xiv. On receipt of an Application from a Builder, the Village will analyze the Builder's ability to construct and sell sufficient Residential Housing units to Persons of Low- or Moderate Income within the time or times as may be required by the Village.
 - xv. Consider other factors it deems appropriate to ensure a reasonable geographic allocation for all Affordable Housing Programs.
- f. Certification by the Village to the MFA. The Village shall certify an Application to the MFA in writing upon:
 - i. Completion of its review of the Application;
 - ii. Determination that the Application is complete;
 - iii. Determination that the requirements of the Act, the Rules and this Ordinance have been satisfied; and
 - iv. Determination that the Applicant is a Qualifying Grantee.
 - g. Review by the MFA. The MFA upon its receipt of the certification from the Village may, in its discretion, review the Application and any of the materials submitted by the Applicant to the Village. The MFA may also request any additional information from the Applicant, which it may require in order to determine whether the Applicant is a Qualifying Grantee under the Act and the Application is complete. The MFA will then notify the Village of its determination of whether or not the Application is complete and that the requirements of the Act and the Rules have been satisfied and the Applicant is a Qualifying Grantee. Unless the period is extended for good cause shown, the MFA shall act on an Application within forty-five (45) days of its receipt of any Application, which the MFA deems to be complete, and, if not acted upon, the Application shall be deemed to be approved.
 - h. Notification of Acceptance. The Village, upon completion of its review of the Application and an evaluation of the criteria for approval of the Application as set forth in the this Ordinance and in any RFP issued by the Village and upon its determination that the Applicant is a Qualifying Grantee, and upon its receipt of notification from the MFA that it agrees that the Application is complete and that the Act and Rules have been satisfied and the Applicant is a Qualifying Grantee, by written notice, shall notify each Applicant which has submitted an Application of the approval or disapproval of its Application. Upon approval of its Application, the Applicant shall be considered approved to participate in the Affordable Housing Program. The Village's and the MFA's determination of any Application shall be conclusive.
4. Additional Requirements. Upon acceptance, the following additional requirements shall apply to any Applicant who is a Qualifying Grantee:
- a. Contractual Requirements. The Qualifying Grantee shall enter into one or more contracts with the Village, which contract(s) shall be consistent with the Act and subject to the review of the MFA, in its discretion, and which contract(s) shall include remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee.
 - b. Security Provisions; Collateral Requirements. In accordance with the Act, the Rules and this Ordinance, the Village shall require the Qualifying Grantee to execute documents, which will provide adequate security against the loss of public funds or property in the event the Qualifying Grantee abandons or fails to complete the Affordable Housing Project, and which shall further provide, as may be permitted by law, for the recovery of any attorneys' fees and costs which the Village and/or the MFA may incur in enforcing the provisions of this Ordinance, the Rules, the Act and/or any agreement entered into by the Village and the Qualifying Grantee, and which documents may include, but are not limited to the following: note, mortgage, loan agreement, land use restriction agreement, restrictive covenant agreements and/or any other agreement

which the Village may require in order to allow for any funds which the Qualifying Grantee may receive under a Housing Assistance Grant or Affordable Housing Funds to be adequately secured and to allow the Village and the MFA to ensure that such funds shall be used by the Qualifying Grantee in accordance with the Act, the Rules and this Ordinance.

- c. Performance Schedule and Criteria. The Qualifying Grantee shall be required to abide by a reasonable performance schedule and performance criteria that the Village, in its discretion, may establish.
 - d. Examination of Books and Records. The Qualifying Grantee shall submit to and the Village shall cause to be made such examinations of the books and records of each Qualifying Grantee as the Village and/or the MFA deems necessary or appropriate to determine the Qualifying Grantee's compliance with the terms of the Act, the Rules, this Ordinance and any contracts between the Qualifying Grantee and the Village. The Village and/or the MFA may require each Qualifying Grantee to pay the costs of any such examination
 - e. Infrastructure Cost Reimbursement Contracts.
 - i. Cost Reimbursements. Payment to a Qualifying Grantee under cost reimbursable contract provisions shall be made upon the Village's receipt from the Qualifying Grantee of certified and documented invoices for actual expenditures allowable under the terms of any agreement between the Qualifying Grantee and the Village.
 - ii. Cost Reimbursements for Units of Service. Payment under any unit cost contract provisions shall be made upon the Village's receipt from the Qualifying Grantee of a certified and documented invoice showing the number of units of service provided during the billing period.
 - iii. Rate at which Costs Incurred. Under unit cost or cost reimbursable contracts, it is anticipated that costs will be incurred by the Qualifying Grantee at an approximate level rate during the term of any agreement between the Qualifying Grantee and the Village. If the Village determines that the Qualifying Grantee is underspending or overspending, then the Village may reduce the budget and/or exercise such other budgetary fiscal controls it deems appropriate.
 - iv. Invoices. Qualifying Grantees shall not submit invoices more than once a month, unless written approval is obtained in advance from the Village. Failure to submit invoices within twenty (20) calendar days of the close of the month for which payment is sought may result in the non-availability of funds for reimbursement.
 - v. No Dual Application of Costs. The Qualifying Grantee shall certify that any direct or indirect costs claimed by the Qualifying Grantee will not be allocable to or included as a cost of any other program, project, contract, or activity operated by the Qualifying Grantee and which has not been approved by the Village in advance, in writing.
 - vi. Prohibition of Substitution of Funds. Any Affordable Housing Funds or other amounts received by Qualifying Grantee may not be used by Qualifying Grantee to replace other amounts made available or designated by the State or local governments through appropriations for use for the purposes of the Act.
 - vii. Cost Allocation. The Qualifying Grantee shall clearly identify and distribute all costs incurred pertaining to the Affordable Housing Project by a methodology and cost allocation plan at times and in a manner prescribed by, or acceptable to the Village.
 - viii. Additional Information. Qualifying Grantees shall provide the Village with any and all information which the Village may reasonably require in order for it to confirm that the Qualifying Grantees continue to satisfy the requirements of the Act, the Rules and this Ordinance throughout the term of any contract and/or any Affordability Period or otherwise as may be required by the Village or the MFA in its discretion. At a minimum, on an annual basis, the Village shall certify to the MFA in writing that to the best of its knowledge the Qualifying Grantee is in compliance with applicable provisions of the Act, the Rules and this Ordinance.
5. Affordable Housing Requirements. All Affordable Housing Funds or Housing Assistance Grants awarded under the Act are to be used by Qualifying Grantees for the benefit of Persons of Low or Moderate-Income subject to the provisions of the Act and with particular regard to their housing related needs.
- a. Single-Family Property.
 - i. Qualifying Grantees shall agree that they shall maintain any single-family property which has been acquired, rehabilitated, weatherized, converted, leased, repaired, constructed, or which property has otherwise benefited from Affordable Housing Funds, including but not limited to any loans which have been repaid with Affordable Housing Funds and which loans previously were secured by such properties, as Affordable Housing for so long as any or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, whichever is longer.
 - ii. If any single-family properties are to be rehabilitated, weatherized, converted, leased, repaired, constructed or otherwise are to benefit from Affordable Housing Funds, and if the Qualifying Grantee intends to rent the single-family property out, those single-family properties shall be leased to Persons of Low- or Moderate-Income at the time of any such award. Grantees also shall agree that the Persons of Low- or Moderate-Income, who are tenants of those apartments, shall be allowed to remain tenants for so long as there are no uncured defaults by those tenants under their respective leases which must be compliant to the New Mexico Uniform Owner Resident Relations Act (NMSA 1978 Sections 47-8-1 through 47-8-52) -- and provided that there is no just cause (as outlined in Section 47-8-33 NMSA 1978) for the landlord to terminate any lease agreement with those tenants.

b. Multi-Family Property.

i. Single Apartment within a Multi-Family Property. Qualifying Grantees shall agree that, if any single apartments are to be rehabilitated, weatherized, converted, leased, repaired, constructed or otherwise are to benefit from Affordable Housing Funds, those apartments shall be leased to Persons of Low- or Moderate-Income at the time of any such award. Qualifying Grantees, who are the landlords and/or owners of such properties, shall further agree to contribute at least sixty percent (60%) of the cost of the rehabilitation, weatherization, conversion, lease, repair, and/or construction. Qualifying Grantees also shall agree that the Persons of Low- or Moderate Income, who are tenants of those apartments, shall be allowed to remain tenants for so long as there are no uncured defaults by those tenants under their respective leases -- which must be compliant to the New Mexico Uniform Owner-Resident Relations Act (NMSA 1978 Sections 47-8-1 through 47-8-52) and provided that there is no just cause (as outlined in Section 47-8-33 NMSA 1978) for the landlord to terminate any lease agreement with those tenants.

ii. Multiple Apartments. Qualifying Grantees shall agree that, if multiple apartments or an entire multi-family property are to be acquired, rehabilitated, weatherized, converted, leased, repaired, constructed or otherwise are to benefit from Affordable Housing Funds, including but not limited to any loans which have been repaid with Affordable Housing Funds and which loans previously were secured by such properties, they shall maintain not less than sixty percent (60%) of the housing units as Affordable Housing for so long as any or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, whichever is longer.

c. Non-Residential Property. Qualifying Grantees shall agree that they shall maintain any non-residential property which has been acquired, rehabilitated, weatherized, converted, leased, repaired, constructed, or which property has otherwise benefitted from Affordable Housing Funds, including but not limited to any loans which have been repaid with Affordable Housing Funds and which loans previously were secured by such properties, as a facility which provides housing related-services to Persons of Low- or Moderate-Income for so long as any or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, whichever is longer.

d. Housing Assistance Grant Affordability Requirements. Qualifying Grantees shall agree that they shall maintain any land or buildings received as a Housing Assistance Grant either as either single-family or multi-family Affordable Housing in accordance with Sections 4.E.(i) and (ii) of this Ordinance or as a facility which provides housing related services to Persons of low- or Moderate-Income in accordance with Section 4.E.(iii) of this Ordinance (as applicable) for the duration of the Affordability Period. Qualifying Grantees shall agree that they shall maintain any land or buildings for which they have received the costs of Infrastructure as a Housing Assistance Grant either as either single family or multi-family Affordable Housing or as a facility which provides housing related-services to Persons of low- or Moderate-Income (as applicable) for the duration of the Affordability Period. In calculating the Affordability Period for Housing Assistance Grants of either land or buildings, the fair market value of the land or buildings or the costs of Infrastructure at the time of the donation by the Village shall apply.

e. Affordability Period. The Village, in its discretion, may increase the Affordability Period in any contract, note, mortgage, loan agreement, land use restriction agreement, restrictive covenant agreements and/or any other agreement which the Village may enter into with any Qualifying Grantee or beneficiary of the Affordable Housing Funds or of the Housing Assistance Grant. (See definition of Affordability Period in Section 3.C. of this Ordinance.) Notwithstanding the foregoing, in the discretion of the MFA, weatherization funds conveyed from the State to the MFA and/or any other similar conveyances where an Affordability Period is not practical, shall not be subject to the Affordability Period requirements of this Section 4.E.; but nevertheless, any such conveyances may be subject to recapture on some pro-rated basis as determined by the Village and/or the MFA.

6. Consent to Jurisdiction. Each Qualifying Grantee shall consent to the jurisdiction of the courts of the State over any proceeding to enforce compliance with the terms of the Act, the Rules and this Ordinance and any agreement between the Qualifying Grantee and the Village and/or the MFA.

7. Recertification Procedures.

a. The Qualifying Grantee must meet the requirements of the Act, the Rules and this Ordinance both at the time of any award and throughout the term of any grant and contract related thereto.

b. The Village may establish procedures for recertifying Qualifying Grantees from time to time.

c. Qualifying Grantees that fail to satisfy the requirements for Recertification shall cease to be eligible and shall be denied further participation in Affordable Housing programs until the requirements of the Village and the MFA are satisfied.

8. Compliance with the Law. Qualifying Grantee shall provide the Village with any certifications or other proof that it may require in order for the Village and the MFA to confirm that the Qualifying Grantee and the Qualifying Grantee's proposed Project are in compliance with all applicable federal, State and local laws, rules and ordinances. At a minimum, on an annual basis, the Qualifying Grantee shall provide the Village with certifications and proof of compliance, and the Village shall certify to the MFA in writing that the Qualifying Grantee is still in compliance with the Act and the Rules.

9. Extension of Affordable Housing Programs. The MFA shall have the power to create variations or extensions of affordable housing programs, or additional programs that comply with the Act and the rules.

10. Village Grant Requirements.

a. The Village is authorized to make Housing Assistance Grants under the Act. Upon determination that the Village will

make a Housing Assistance Grant, including the use of any Affordable Housing Funds, the Village shall provide the MFA with the following:

- i. Documentation that confirms that the Village has an existing valid Affordable Housing Plan;
 - ii. Documentation that confirms that the Village has an existing valid Affordable Housing Ordinance which provides for the authorization of the Housing Assistance Grant, including the use of any Affordable Housing Funds;
 - iii. Written certification that the proposed grantee is in compliance with Act and the Rules so that the MFA may confirm that the Application is complete, and that the proposed grantee is a Qualifying Grantee under the Act and the Rules.
- b. Prior to the submission of the application and project authorization to the Commission, the Commission must approve the budget submitted by the Applicant.
- c. An action authorizing the Village to make a Housing Assistance Grant and/or distribute Affordable Housing Funds:
- i. Must authorize the grant, including use of Affordable Housing Funds, if any;
 - ii. Must state the requirements and purpose of the grant;
 - iii. Must authorize the transfer or disbursement to the Qualifying Grantee only after a budget is submitted to and approved by the Commission;
 - iv. Must comply with the Rules, as amended; and
 - v. May provide for matching or using local, private or federal funds either through direct participation with a federal agency pursuant to federal law or through indirect participation through the MFA.
- d. The MFA shall act to approve the proposed Housing Assistance Grant authorized by the Village within forty-five(45) days of its receipt of the documentation required above in Section 4.J.(i), (ii) and (iii) of this Ordinance.
- e. The Village, in its discretion, may also hold any award of Affordable Housing Funds or any Housing Assistance Grant made by the Village in suspense pending the issuance by the Village of any RFP or pending the award of the Affordable Housing Funds or of the Housing Assistance Grant by the Village to the Qualifying Grantee without the issuance of an RFP by the Village. Any award of Affordable Housing Funds or a Housing Assistance Grant by the Village shall subject the Qualifying Grantee of the award or grant to the oversight of the Village and the MFA under this Ordinance and the Rules.
11. School District and Public Post-Secondary Educational Institution Donations for Housing Projects. If a school district or a public post-secondary education institution intends to transfer land to the Village to be further granted to a Qualifying Grantee as part or all of an Affordable Housing project, this transfer shall be subject to the limitations contained in the Act that the school district and the Commission enter into a contract that provides the school district with a negotiated number of affordable housing units that will be reserved for employees of the school district. Any transfer of land by a public post-secondary educational institution shall be subject to the additional limitations contained in the Act that:
- a. The property transferred shall be granted to a Qualifying Grantee by the Village as part of a grant for an Affordable Housing project; and
 - b. The governing board of the public post-secondary educational institution and the Commission enter into a contract that provides the public post-secondary educational institution with Affordable Housing units.

As used in this section, "public post-secondary educational institution" means a state university or a public community college. The Village, in its discretion, may also hold any Housing Assistance Grant made by any school district or public post-secondary educational institution in suspense pending the issuance by the Village of any RFP or pending the award of the Housing Assistance Grant by the Village to the Qualifying Grantee without the issuance of an RFP by the Village. Any award of a Housing Assistance Grant by a school district or a public post-secondary educational institution shall subject the Qualifying Grantee of the grant to the oversight of the Village and the MFA under the Rules.

Section 5. DISCRIMINATION PROHIBITED.

The development, construction, occupancy and operation of an Affordable Housing Program or an Affordable Housing Project financed or assisted under the Act shall be undertaken in a manner consistent with principles of non-discrimination and equal opportunity, and the Village shall require compliance by all Qualifying Grantees with all applicable federal and State laws and regulations relating to affirmative action, non-discrimination and equal opportunity.

Section 6. ADMINISTRATION.

The Village shall administer any Affordable Housing programs in accordance with provisions of the Act, the Rules, this Ordinance, any applicable state and federal laws and regulations as each of which may be amended or supplemented from time to time. The Village, in establishing, funding and administering the Affordable Housing Programs and by making, executing, delivering and performing any award, contract, grant or any other activity or transaction contemplated by the Act, shall not violate any provision of law, rule or regulation or any decree, writ, order, injunction, judgment, determination or award and will not contravene the

provisions of or otherwise cause a default under any of its agreements, indentures, or other instruments to which it may be bound. Any proposed amendment to this ordinance shall be submitted to MFA for review prior to adoption by the Commission.

Section 7. TERMINATION.

The Commission may repeal this Ordinance and terminate the Village's Affordable Housing Program and any or all contracts undertaken in its authority. Termination shall be by ordinance at a public hearing or in accordance with the terms of the contract. If an ordinance or a contract is repealed or terminated, all contract provisions of the contract regarding termination shall be satisfied.

Section 8. REPEALER.

All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with this Ordinance are repealed by this Ordinance but only to the extent of that inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, previously repealed.

Section 9. SEVERABILITY.

If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 10. EFFECTIVE DATE.

This Ordinance shall be in full force and effect thirty (30) days after it is recorded with the Village Clerk in accordance with Section 4-37-9 NMSA, 1978.

PASSED, APPROVED AND ADOPTED this 24 day of December, 2024.

Mayor BJ Lindsey

Attest:

Victor Rocky Lira, Village Clerk

ORDINANCE NO 2024-06

Amending Title 3 (Lodgers Tax Ordinance)

WHEREAS, The Village of Angel Fire recommends these amendments to Title 3, Chapter 3 of the Village Code to impose a tax which will be borne by persons using commercial lodging accommodations including short term nightly rental;

NOW THEREFORE BE IT ORDAINED, that these amendments, as detailed here be written into the Village Code.

PASSED, APPROVED AND ADOPTED this 24th Day of December, 2024

Chapter 3

LODGERS' TAX

3-3-1: TITLE: 3

3-3-2: PURPOSE:

3-3-3: DEFINITIONS:

3-3-4: TAX IMPOSED:

3-3-5: LICENSING REQUIREMENTS:

3-3-6: EXEMPTIONS FROM TAX:

3-3-7: COLLECTION OF TAX; REPORTING PROCEDURES:

3-3-8: RECORDS KEPT:

3-3-9: ADMINISTRATION OF MONIES COLLECTED:

3-3-10: ELIGIBLE USES OF PROCEEDS:

3-3-11: FINANCIAL REPORTING:

3-3-12: VENDOR AUDITS:

3-3-13: CONFIDENTIALITY OF RETURN AND AUDIT:

3-3-14: REFUNDS AND CREDITS:

3-3-15: FAILURE TO MAKE RETURN:

3-3-16: ENFORCEMENT AND PENALTIES:

3-3-1: TITLE:

This chapter shall be known as and cited as the *LODGERS' TAX ORDINANCE*. (Ord. 1996-12, 10-10-1996)

3-3-2: PURPOSE:

The purpose of this chapter is to impose a tax which will be borne by persons using commercial lodging accommodations including short term nightly rental (as set out in the Short Term Nightly Rental Ordinance), which tax will provide revenues for the purpose of advertising, publicizing and promoting tourist related attractions, facilities and events, and acquiring, establishing and operating tourist related facilities, attractions or transportation systems, as authorized in section 3-3-10 of this chapter and Title 12. (Ord. 1996-12, 10-10-1996)

3-3-3: DEFINITIONS:

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

BOARD: The advisory board established herein to make recommendations to the governing body, keep minutes of its proceedings and submit its recommendations, correspondence and other pertinent documents to the governing body.

GROSS TAXABLE RENT: The total amount of rent paid for lodging, not including the state gross receipts tax or local sales taxes.

LODGING: The transaction of furnishing rooms or other accommodations by a vendor to a vendee who, for rent, uses, possesses or has the right to use or possess any room or rooms or other units of accommodations in or at a taxable premises. Lodging shall include the provision of short term rentals as set out in the Short Term Nightly Rental Ordinance.

LODGINGS: The rooms or other accommodations furnished by a vendor to a vendee by a taxable service of lodging and including Short Term Rental Units.

OCCUPANCY TAX: The tax on lodging authorized by the lodgers' tax act ¹.

PERSON: A corporation, firm, other body corporate, partnership, association or individual. "Person" includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity, but does not include the United States of America, the state of New Mexico, any corporation, department, instrumentality or agency of the federal government or the state government, or any political subdivision of the state.

RENT: The consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to an occupancy tax authorized in the lodgers' tax act.

SHORT TERM NIGHTLY RENTAL ORDINANCE: Title 12 of the Village Code.

TAXABLE PREMISES: A hotel, apartment, apartment hotel, apartment house, lodge, lodging house, rooming house, motor hotel, guesthouse, guest ranch, ranch resort, guest resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp, cabin or other premises for lodging.

TOURIST: A person who travels for the purpose of business, pleasure or culture to a municipality or county imposing an occupancy tax.

TOURIST RELATED EVENTS: Events that are planned for, promoted to and attended by tourists.

TOURIST RELATED FACILITIES AND ATTRACTIONS: Facilities and attractions that are intended to be used by or visited by tourists.

TOURIST RELATED TRANSPORTATION SYSTEMS: Transportation systems that provide transportation for tourists to and from tourist related facilities, attractions and events.

VENDEE: A natural person to whom lodgings are furnished in the exercise of the taxable service of lodging.

VENDOR: A person furnishing lodgings in the exercise of the taxable service of lodging.

VILLAGE FINANCE DIRECTOR: The village finance director of Angel Fire, New Mexico.

3-3-4: OCCUPANCY TAX IMPOSED:

There is hereby imposed an occupancy tax of five percent (5%) of the gross taxable rent for lodging within the village paid to vendors. (Ord. 1996-12, 10-10-1996)

3-3-5: LICENSING REQUIREMENTS:

A. License Required: No vendor shall engage in the business of providing lodging in the village who has first not obtained a license or short-term rental permit as provided in this section and Title 12.

B. Application for License: Applicants for a vendor's license shall submit an application to the village finance director stating:

1. The name, address, telephone number and email address of the owner of the subject lodgings;
2. The name, address, telephone number and email address of the authorized agent or representative of the lodgings, if applicable;
3. The physical address of the proposed lodgings;
4. The square footage, number of bedrooms and bathrooms of the proposed lodgings;
5. Other information reasonably necessary to affect a determination of eligibility for such license.

C. Fee Established: In addition to the Occupancy Tax, fees shall be imposed on short term rental vendors, such fees to include a short-term rental application and permit fee. Fees shall be set by resolution of the governing body.

D. Grant of License: The village finance director shall review applications for license within ten (10) days of receipt thereof and grant the license in due course if the applicant is doing business subject to the lodgers' tax.

E. Appeal:

1. Filing Appeal: An applicant who is dissatisfied with the decision of the village finance director may appeal the decision to the governing body by written notice to the Village Clerk of such appeal to be made within fifteen (15) days of the date of the decision of the village finance director on the application.
2. Hearing: The matter shall be referred to the governing body for hearing at a regular or special meeting in the usual course of business.
3. Action by Governing Body: The decision of the governing body made thereof shall be expressed in writing and be communicated in the same manner as the decision of the village finance director is transmitted. The action of the governing body shall be deemed final.
4. Issuance Of License; Notice Of Other Decisions: If the governing body finds for the applicant, the village finance director shall issue the appropriate license or other notice conforming to the decision made by the governing body. (Ord. 1996-12, 10-10-1996)

3-3-6: EXEMPTIONS FROM TAX:

The occupancy tax shall not apply:

A. If a vendee:

1. Has been a permanent resident of the taxable premises for a period of at least thirty (30) consecutive days; or
2. Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least thirty (30) consecutive days.

B. If the rent paid by the vendee is less than two dollars (\$2.00) a day;

C. To lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;

D. To lodging accommodations at religious, charitable, educational or philanthropic institutions, including, without limitation, such accommodations at summer camps operated by such institutions;

E. To clinics, hospitals or other medical facilities;

F. To privately owned and operated convalescent homes, or homes for the aged, infirm, indigent or chronically ill; or (Ord. 1996-12, 10-10-1996)

3-3-7: COLLECTION OF TAX; REPORTING PROCEDURES:

A. Collection Required: Every vendor providing lodgings shall collect the tax thereon on behalf of the village and shall act as a trustee therefor.

B. Separate Charge from Rent: The tax shall be collected from vendees and shall be charged separately from the rent fixed by the vendor for the lodgings.

C. Liability of Vendor: Each vendor licensed under this chapter shall be liable to the village for the tax provided herein on the rent paid for lodging at his respective place of business.

D. Return Filed: Each vendor shall make a report by the twenty fifth day of each month, on forms provided by the village finance director, of the receipts for lodging in the preceding calendar month, and shall submit the proceeds of the lodgers' tax to the village and include sufficient information to enable the village to audit the reports and shall be verified on oath by the vendor. (Ord. 1996-12, 10-10-1996)

3-3-8: RECORDS KEPT:

The vendor shall maintain adequate records of facilities subject to the tax and of proceeds received for the use thereof. Such records shall be maintained in the village, and shall be open to inspection by the village during reasonable hours and shall be retained for three (3) years. (Ord. 1996-12, 10-10-1996)

3-3-9: ADMINISTRATION OF MONIES COLLECTED:

A. Administrative Authority: The governing body shall administer the lodgers' tax monies collected.

B. Advisory Board: The mayor shall appoint a five (5) member advisory board that consists of two (2) members who are owners or operators of lodgings subject to the occupancy tax within the village, two (2) members who are owners or operators of industries located within the village that primarily provide services or products to tourists, and one member who is a resident of the village and represents the general public. The board shall advise the governing body on expenditure of funds authorized under section 3-3-10 of this chapter for advertising, publicizing and promoting tourist attractions and facilities in the village and surrounding area. (Ord. 1996-12, 10-10-1996)

3-3-10: ELIGIBLE USES OF PROCEEDS:

Subject to the limitations contained in New Mexico Statutes Annotated section 3-38-15, the village may use the proceeds from the tax to defray the costs of:

A. Collecting and otherwise administering the tax, including the performance of audits required by the lodgers' tax act pursuant to guidelines issued by the state department of finance and administration; (Ord. 1996-12, 10-10-1996; and. 2003 Code)

B. Establishing, operating, purchasing, constructing, otherwise acquiring, reconstructing, extending, improving, equipping, furnishing or acquiring real property or any interest in real property for the site or grounds for tourist related facilities, attractions or transportation systems of the village, the county in which the village is located or the county;

C. The principal of and interest on any prior redemption premiums due in connection with and any other charges pertaining to revenue bonds authorized by New Mexico Statutes Annotated section 3-38-23 or section 3-38-24;

D. Advertising, publicizing and promoting tourist related attractions, facilities and events of the village or county and tourist facilities or attractions within the area;

E. Providing police and fire protection and sanitation service for tourist related events, facilities and attractions located in the village; or

F. Any combination of the foregoing purposes or transactions stated in this section, but for no other municipal purpose. (Ord. 1996-12, 10-10-1996)

3-3-11: FINANCIAL REPORTING:

A. The governing body shall furnish the advisory board that portion of any proposed budget, report or audit filed or received by the governing body pursuant to either New Mexico Statutes Annotated chapter 6, article 6 or the audit act ² that relates to expenditure of occupancy tax funds within ten (10) days of the filing or receipt of such proposed budget, report or audit by the governing body. (Ord. 1996-12, 10-10-1996)

B. The governing body shall report to the local government division of the state department of finance and administration on a quarterly basis any expenditure of occupancy tax funds pursuant to New Mexico Statutes Annotated sections 3-38-15 and 3-38-21 and shall furnish a copy of this report to the advisory board when it is filed with the division. (Ord. 1996-12, 10-10-1996; and. 2003 Code)

3-3-12: VENDOR AUDITS:

A. The governing body shall conduct random audits to verify full payment of occupancy tax receipts.

B. The governing body shall determine each year the number of vendors within the village to audit. (Ord. 1996-12, 10-10-1996)

C. The audits may be performed by the village finance director or by any other designee of the governing body. A copy of the audits shall be filed annually with the local government division of the state department of finance and administration. (Ord. 1996-12,10-10-1996; and. 2003 Code)

3-3-13: CONFIDENTIALITY OF RETURN AND AUDIT:

It is unlawful for any employee of the village to reveal to any individual other than another employee of the village any information contained in the return or audit of any taxpayer, including vendors subject to the lodgers' tax act, except to a court of competent jurisdiction in response to an order thereof in an action relating to taxes to which the village is a party, and in which information sought is material to the inquiry; to the taxpayer himself or to his authorized representative; and in such manner, for statistical purposes, the information revealed is not identified as applicable to any individual taxpayer. (Ord. 1996-12, 10-10-1996)

3-3-14: REFUNDS AND CREDITS:

If any person believes he has made payment of any lodgers' tax in excess of that for which he was liable, he may claim a refund thereof by directing to the village finance director, no later than ninety (90) days from the date payment was made, a written claim for refund. Every claim for refund shall state the nature of the person's complaint and the affirmative relief requested. The village finance director shall allow the claim in whole or in part or may deny it. Refunds of tax and interest erroneously paid and amounting to one hundred dollars (\$100.00) or more may be made only with the approval of the governing body. (Ord. 1996-12, 10-10-1996)

3-3-15: FAILURE TO MAKE RETURN:

A. Liability for Tax; Civil Penalty: Every vendor is liable for the payment of the proceeds of any occupancy tax that the vendor failed to remit to the village, whether due to his failure to collect the tax or otherwise. He shall be liable for the tax plus a civil penalty equal to the greater of ten percent (10%) of the amount not remitted or one hundred dollars (\$100.00). The village finance director shall give the delinquent vendor written notice of the delinquency, which notice shall be mailed to the vendor's local address.

B. Collection of Delinquent Taxes: If payments are not received within fifteen (15) days of the mailing of the notice, the village may bring an action in law or equity in the district court for the collection of any amounts due, including, without limitation, penalties thereon, and interest on the unpaid principal at a rate not exceeding one percent (1%) a month. If the village attempts collection through an attorney or the village attorney for any purpose with regard to this chapter, the vendor shall be liable to the village for all costs, fees paid to the attorney or village attorney, and all other expenses incurred in connection therewith.

C. Tax A Lien: The occupancy tax imposed by the village constitutes a lien in favor of the village upon the personal and real property of the vendor providing lodgings. The lien may be enforced as provided in New Mexico Statutes Annotated sections 3-36-1 through 3-36-7. Priority of the lien shall be determined from the date of filing.

D. Property Sales; Taxes to Be Current: Under process or order of court, no person shall sell the property of the vendor without first ascertaining from the village finance director the amount of any occupancy tax due the village. Any occupancy tax due the village shall be paid from the proceeds of the sale before payment is made to the judgment creditor or any other person with a claim on the proceeds of the sale. (Ord. 1996-12, 10-10-1996)

3-3-16: ENFORCEMENT AND PENALTIES:

A. Enforcement:

1. An action to enforce the lodgers' tax act may be brought by:

- a. The attorney general or the district attorney in the county of jurisdiction; or
- b. A vendor who is collecting the proceeds of an occupancy tax in the county of jurisdiction.

2. A district court may issue a writ of mandamus or order an injunction or other appropriate remedy to enforce the provisions of the lodgers' tax act.

3. The court shall award costs and reasonable attorney fees to the prevailing party in a court action to enforce the provisions of the lodgers' tax act. (Ord. 1996-12, 10-10-1996)

B. Criminal Penalties: Any person who violates the provisions of this chapter for a failure to pay the tax, to remit proceeds thereof to the village, to properly account for any lodging and tax proceeds pertaining thereto, or for violating the confidentiality provisions of section 3-3-13 of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 1996-12, 10-10-1996; and. 2003 Code)

Footnotes - Click any footnote link to go back to its reference.

[Footnote 1](#): NMSA § 3-38-13 et seq.

[Footnote 2](#): NMSA § 12-6-1 et seq.

Passed, approved, and adopted this 24th day of December, 2024

BJ Lindsey, Mayor

ATTEST:

Victor Rocky Lira, Clerk

ORDINANCE NO 2024-07

Amending Title 4 (Public Health and Safety Ordinance)

WHEREAS, The Village of Angel Fire recommends this amendment to Title 4.1.7 Village Fire Code to adopt the 2021 edition of the International Fire Code;

NOW THEREFORE BE IT ORDAINED, that this amendment, as detailed here be written into the Village Code.

PASSED, APPROVED AND ADOPTED this 24th Day of December, 2024

TITLE 4

PUBLIC HEALTH AND SAFETY

CHAPTER 1

FIRE DEPARTMENT

SECTION:

4-1-1: Department Created

4-1-2: Fire Chief

4-1-3: Authority And Powers

4-1-4: Members Designated As Special Police

4-1-5: Obstructing Or Interfering With Firefighters

4-1-6: Penalties

4-1-7: Fire Code

4-1-1: DEPARTMENT CREATED:

There is created a department of the Village government to be known as the Fire Department. The firefighting organization which is organized as the Village Volunteer Fire Department and the combination of employees and volunteers of the Village so assigned are recognized as the existing Fire Department and a department of the Village. (Ord. 2017-05, 6-13-2017)

4-1-2: FIRE CHIEF:

The Mayor, with the advice and consent of a majority of all the members of the Village Council, shall appoint a Fire Chief who shall serve at the pleasure of the Governing Body. The Fire Chief shall receive a salary as provided in the Village budget. The Fire Chief shall report to the Village Manager on all matters concerning the administration of the Fire Department including, but not limited to: emergency medical services, field operations, planning, staffing, recruitment and retention, training, budgeting, and all matters for the development and improvement of the Fire Department. The Fire Chief shall advise on matters concerning the implementation and enforcement of Fire and Life Safety Codes as the enforcement officer/agency head. (Ord. 2017-05, 6-13-2017)

4-1-3: AUTHORITY AND POWERS:

The Fire Department shall have full and complete authority in connection with fighting any fire and responding to any emergency that may arise within the Village or outside the Village in any area the department is given responsibility to respond pursuant to ordinance, rule, regulation, statute or agreement. The department has the power to do and perform all necessary or expedient acts for the fighting of fire and mitigation of the emergency. When called to a fire or emergency

scene, the Fire Department shall have full and complete authority of the premises to which it has been summoned until the fire has been extinguished and the emergency resolved and the premises are deemed safe by the Fire Department. (Ord. 2017-05, 6-13-2017)

4-1-4: MEMBERS DESIGNATED AS SPECIAL POLICE:

Every member duly enrolled and in good standing in the Fire Department shall be a special police officer of the Village with power to act as such from the time of the sounding of any emergency alarm until the apparatus and equipment for fighting fire or mitigating the emergency has been returned to the fire station. In addition, the Fire Chief has the authority to issue a written citation for any unauthorized vehicle parking in or obstructing a designated fire lane. (Ord. 2017-05, 6-13-2017)

4-1-5: OBSTRUCTING OR INTERFERING WITH FIREFIGHTERS:

It is unlawful for any person to obstruct, annoy or interfere with firefighters while in the discharge of their duties. (Ord. 2017-05, 6-13-2017)

4-1-6: PENALTIES:

Any violation of this chapter shall be subject to penalty as provided in section 1-4-1 of this Code. Every day that any such violation continues constitutes a separate offense. The penalty for parking in or obstructing a designated fire lane shall be a required appearance in Angel Fire Municipal Court and no less than a fifty dollar (\$50.00) fine, and each occurrence thereafter shall be a penalty left to the discretion of the Municipal Judge. (Ord. 2017-05, 6-13-2017)

4-1-7: FIRE CODE:

An ordinance adopting the 2021 edition of the International Fire Code. Regulating and governing, the safe-guarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substance, materials, and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the Village of Angel Fire; providing for the issuance of permits and collection of fees. This chapter shall meet or exceed the most current edition of the International Fire Code recognized by the State Fire Marshal's Office, a division of the New Mexico Public Regulation Commission. (Ord. 2017-05, 6-13-2017)

Passed, approved, and adopted this 24th day of December, 2024

BJ Lindsey, Mayor

ATTEST:

Victor Rocky Lira, Clerk

ORDINANCE NO 2024-08

New Title 12 (Short Term Rental Ordinance)

WHEREAS, The Village of Angel Fire recommends this new Title 12, ordinance of the Village Code to establish new regulations for the use of privately-owned residential dwellings as short-term rentals;

NOW THEREFORE BE IT ORDAINED, that these amendments, as detailed here be written into the Village Code.

PASSED, APPROVED AND ADOPTED this 24th Day of December, 2024

Title 12

Chapter 1

Short-term Nightly Rental Ordinance

12-1-1: TITLE

12-1-2: PURPOSE

12-1-3: DEFINITIONS

12-1-4: SHORT-TERM RENTAL PERMIT AND APPLICATION

12-1-5: OPERATIONAL REQUIREMENTS AND STANDARD CONDITIONS

12-1-6: VIOLATIONS

12-1-1: TITLE

This Ordinance shall be known as and cited as *Short-term Nightly Rental Ordinance*.

12-1-2: PURPOSE

The purpose of this Ordinance is to establish regulations for the use of privately-owned residential dwellings as short-term rentals.

12-1-3: DEFINITIONS

For the purpose of this ordinance the following words and phrases shall have the meaning respectively ascribed to them by this section:

APPLICANT: The Owner of the short-term rental unit or the Owner's authorized agent or representative.

OCCUPANT: Any person who seeks to rent or who does rent a privately owned residential unit for a period of less than thirty (30) consecutive days.

OWNER: The Owner of a short-term rental unit, or designated agent or representative of the Owner, who is responsible for compliance with this ordinance with respect to the short-term rental unit, and who is legally responsible for ensuring that all Occupants of the short-term rental unit and/or their guests comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental unit.

PROPERTY: The legal lot of record on which a short-term rental is located.

SHORT-TERM RENTAL PERMIT: A permit that allows the use of a privately owned residential dwelling as a short-term rental unit pursuant to the provisions of this ordinance, and that incorporates any potential requirements required in Section 3-3-1, Lodgers' Tax Ordinance of the Village code.

SHORT-TERM RENTAL UNIT: A privately owned residential dwelling, such as, but not limited to, a single-family detached

or multiple-family attached unit, apartment, condominium, cooperative apartment, duplex, or any portion of such dwelling rented for occupancy for dwelling, lodging, or sleeping purposes for any period less than thirty (30) consecutive days.

VENDOR: A person providing the short-term rental of a short-term rental unit or the furnishing of lodging in the exercise of the taxable service of lodging, to include the Owner as defined herein.

12-1-4 SHORT-TERM RENTAL PERMIT AND APPLICATION

A. The Owner, agent or representative is required to obtain a short-term rental permit for each short-term rental unit. An Owner's agent or representative may complete and submit any application for a short-term rental permit with Owner's approval. In addition, the Owner is required to obtain a business registration from the Village (but only if the Owner, agent or representative does not have a business registration applicable to the business of providing lodging on the property), pursuant to the provisions of this Ordinance and Section 3-1-1 et.seq. respectively, before renting any privately-owned residential dwelling to any Occupant for a period less than thirty (30) consecutive days.

B. Permit fees shall be set by Village Council Resolution.

C. The Owner, agent or designated representative is required to pay:

1. All Lodgers' Tax for lodging revenues earned within the Village, at a rate of five percent (5%) of gross taxable rent for lodging paid to vendor, pursuant to the provisions of Section 3-3-1 et.seq., of the Lodgers' Tax Ordinance. In addition, each vendor shall make a report by the twenty-fifth day of each month on forms provided by the Village Finance Director (or designee) of the receipts for lodging in the preceding calendar month, and shall submit the proceeds of the Lodgers' Tax to the Village and include sufficient information to enable the Village to audit the report, and such report shall be verified on oath by the vendor in accordance with Section 3-3-7. Monthly reports shall include and attach reports from each rental platform (e.g. VRBO and Airbnb) documenting fees collected and paid by the rental platform to the Owner/vendor. Monthly reports may include reports generated from property management software; and

2. All sports and recreation facility fees, at a rate of 2.4% of the gross revenue of the short-term rental unit, pursuant to the provisions of Section 3-7-1 et.seq. of the Village code. Any Owner, its agent or designated representative, shall collect the fee on behalf of the Village and shall remit the fees collected to the Village on or before the twenty fifth of each month along with the Lodger's Tax pursuant to Section 3-7-7 of the Village code and this Ordinance

D. A short-term rental permit shall be required to be renewed on an annual basis based on the anniversary of the issuance of the original permit. Approval shall remain valid for one year unless there is a substantial change in the short-term rentals Operational Requirements and Standard Conditions as listed in Section 12-1-5.

E. The Owner, agent or authorized representative must submit the following information to the Village:

1. All application materials required by Section 9-3-4 B.2; and

2. The site plan shall include the location and dimensions of all required on-site parking spaces, as established in this Ordinance, at Section 12-1-5 D.

3. Fire exit map clearly detailed on a floor plan of the short-term rental unit, which map shall be visibly and conspicuously posted in at least two locations of the unit.

12-1-5: OPERATIONAL REQUIREMENTS AND STANDARD CONDITIONS

A. The Owner shall use reasonably prudent business practices to ensure that the short-term rental unit is used in a manner that complies with all applicable laws, rules and regulations and pertaining to the use and occupancy of the subject short-term rental unit. It is recommended and Owners are encouraged to procure supplemental insurance coverage for short-term rental units.

B. Maximum number of Occupants: The maximum number of overnight guests for a short-term rental shall not exceed more than five (5) persons per full bath and two (2) persons per half bath. The maximum number of Occupants shall be identified in any advertisements or listings on rental platforms. Nothing herein precludes Owner from seeking a variance for properties.

C. Appearance, Visibility or Location: A short-term rental shall not change the residential character of the outside appearance of the residence, either by use of colors, materials, lighting or any advertising mechanism.

D. On-Site Parking Required: All parking associated with short-term rentals located in residentially or multi-family zoned lands shall be entirely on-site, in a garage, carport or driveway, or otherwise arranged, dedicated off-site parking. No parking shall be permitted in yards or any site not designed or customarily used for parking. There is no on-street parking allowed; any on-street parking is a violation of the Village's Uniform Traffic Code Section 12-6-6.1 thru 12-6-6.14 Off-site parking plans must be submitted for Code Administrator approval.

E. Noise: Occupants of the short-term rental shall comply with the standards and regulations of Title 5, Chapter 2B-3, Unreasonable Noise.

F. Fire Inspections: A fire code official or qualified inspection official, as defined by the International Fire Code (IFC), must conduct an inspection of the building at least once every two (2) years pursuant to the IFC in existence at the time of the inspection applying standards applicable to residential code and construction.

G. Occupant Notification: The Owner shall provide each Occupant of the short-term rental with the following information prior to occupancy of the unit and/or shall post such information in a prominent location within the unit:

1. Contact information for Owner or representative with 24-hour availability;
2. The maximum number of Occupants as permitted pursuant to this Ordinance, such maximum number of Occupants shall also be identified in any advertisements or listings on rental platforms;
3. Location of trash disposal and regulations pertaining to disposal of trash and recyclables within the Village; and
4. Notification that the Occupant or Owner may be cited or fined by the Village in accordance with this Ordinance and/or Title 5, Chapter 2B-3, Unreasonable Noise.

H. While a short-term rental is rented, the Owner, agent or representative shall be available 24 hours a day for the purpose of responding to complaints regarding the condition, operation, or conduct of Occupants of the short-term rental unit or their guests.

I. The Owner shall use reasonably prudent business practices to ensure that the Occupants and/or guests of the short-term rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term rental.

J. Prior to occupancy of a short-term rental unit, the Owner shall:

1. Obtain the name, address and email address of the Occupant, guest or other responsible person renting the short-term rental unit; and
2. Require such person to sign a formal acknowledgement that they are legally responsible for compliance by all Occupants and their guests of the short-term rental unit with all applicable laws, rules and regulations pertaining to the use and

occupancy of the short-term rental unit. This information shall be maintained by the Owner for a period of three (3) years, and be made readily available upon request by the Village.

K. Trash and refuse must not be stored within public view, but must be deposited in receptacles at the designated area for Village trash and recyclables. The Vendor must have posted in plain sight the directions to the appropriate solid waste drop off location.

L. The Owner shall post the current short-term rental permit number in any advertisement appearing in any newspaper, magazine brochure television, trade paper, internet website or other rental platform site that promotes the availability or existence of a short-term rental unit.

M. The Owner shall comply with all provisions of Chapter 3-1, Business Registration.

N. The Owner shall comply with all provisions of Chapter 3-3, Lodgers' Tax.

O. The Code Administrator, or designee, shall have the authority to impose additional conditions on the use of any given short-term rental unit to ensure that any potential secondary effects unique to the subject short-term rental unit are avoided or adequately mitigated.

P. The standard conditions set forth herein may be modified by the Code Administrator, or designee, upon request of the Owner based on site specific circumstances. All requests must be in writing, submitted to the Village Code Administrator and shall identify how the strict application of the standard conditions creates an unreasonable hardship to the Owner of a property such that, if the requirement is not modified, reasonable use of the property for a short-term rental would not be allowed. Any hardships identified must relate to physical constraints of the subject site and shall not be self-induced. Any modifications of the standard conditions shall not further exacerbate an already existing problem.

12-1-6: VIOLATIONS

A. Additional Conditions: A violation of any provision of this Ordinance by any of the Occupants, their guests or Owners shall authorize the Code Administrator, or designee to impose additional conditions on the use of any given short-term rental unit to ensure that any potential future violations are avoided.

B. Permit Modification, Suspension and Revocation: A violation of any provision of this Ordinance by the Occupants, their guests or Owners shall constitute grounds for modification, suspension, and/or revocation of the short-term rental permit and/or any affiliated licenses or permits pursuant to the provisions set forth in herein.

1. Whenever any Owner fails to comply with any provision of this Ordinance, the Code Administrator, or designee, after giving the Owner ten (10) day's notice may modify, suspend or revoke the permit held by the Owner.

2. Notice of Violation: The Village may issue a notice of violation to any Occupant, guest or Owner, pursuant to this Ordinance, if there is any violation committed, caused or maintained by any of the parties above.

C. Infraction: The Village may issue a citation to any Occupant, guest, Owner or operator pursuant to the provisions set forth in this Ordinance.

Passed, approved, and adopted this 24th day of December, 2024

BJ Lindsey, Mayor

ATTEST:

Victor Rocky Lira, Clerk

ORDINANCE NO 2024-09

Amending Title 2 (Personnel Policy)

A. WHEREAS, The Village of Angel Fire recommends these amendments to Title 2, Chapter 1 of the Village Personnel Policy to provide a uniform system of personnel administration for all Village departments and promote communication among department directors, supervisors and employees;

NOW THEREFORE BE IT ORDAINED, that these amendments, as detailed here be written into the Village Code.

PASSED, APPROVED AND ADOPTED this 24th Day of December, 2024

I. PURPOSE

This Personnel Ordinance is enacted by the Village of Angel Fire ("Village or "Angel Fire") in order to further the following goals:

B. To provide a uniform system of personnel administration for all Village departments and promote communication among department directors, supervisors and employees;

C. To assist management in personnel actions and procedures and to assure effective and consistent use of human resources by the Village.

II. GENERAL PROVISIONS.

A. Short Title. This document may be cited as the Angel Fire Personnel Ordinance.

B. Disclaimer. Policies, plans, procedures, and information contained in this Ordinance are for guidance and informational purposes only. This Ordinance is not a contract of employment, or a guarantee of employment in any particular position or for any particular period of time. Nothing herein changes the at-will nature of employment with the Village. Both the employee and the Village retain the right to terminate employment at any time for any lawful reason, or no reason, with or without advance notice.

C. **Applicability.** The terms of this Personnel Ordinance apply to all employment classifications as specified herein. A collective bargaining agreement that contains a provision that contradicts a provision in this Personnel Ordinance shall supersede the specific provision in this Personnel Ordinance only to the extent that the collective bargaining agreement is contradictory. A department may establish written policies or operating procedures that are applicable only to the department. If there is a conflict between a department-specific policy and this Personnel Ordinance, this Ordinance shall supersede the department-specific procedure.

D. **Time.** In computing any period of time prescribed or allowed in this Personnel Ordinance, the day of the event or act from which a designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a day when which the administrative offices of the Village are closed, in which event the time period runs until the next day which is not one of the aforementioned days. Unless otherwise specified, the term "day" or "days" shall refer to calendar days.

III. DEFINITIONS

A. Evaluation or Performance Review. An assessment by an employee's supervisor of the employee's performance. An evaluation can be annual, probationary, directed, requested, or disciplinary.

B. Exempt Position. A position that is not subject to the overtime rules of the Fair Labor Standards Act.

C. Fair Labor Standards Act or FLSA. The federal law that establishes certain standards for nonexempt positions, published as 29 U.S.C sections 201 through 219 as it currently exists or is hereafter amended.

D. Non-Exempt Position. A position that is subject to the Fair Labor Standards Act.

E. Paid Time Off (PTO). An accumulated number of hours that an employee may use in accordance with this title, as they wish, for sick days, vacation and/or other personal reasons.

F. Termination. Involuntary dismissal from employment.

G. Village Manager.: The Chief Administrative Officer of the Village.

H. Reorganization. Reorganization is the elimination, reclassification, creation or realignment of departments, offices, positions or personnel. Reorganization is subject to approval by the Manager.

IV. VILLAGE EMPLOYMENT CLASSIFICATIONS

A. Classified Employee. A classified employee is an employee who has completed the probationary period and is in a full-time position or a part-time position working at least thirty (30) hours per week.

B. Elected Official. An Elected Official is a Town Councilor or the Mayor. Elected Officials are not classified employees or regular employees and their employment is generally not governed by this Personnel Ordinance. Elected Officials are eligible to receive certain benefits, but only as specifically set forth herein. If a given policy is silent as to its application to Elected Officials, it does not apply.

C. Appointed Employee. Appointed Employees include the Village manager, clerk, police chief, fire chief, finance director and attorney. Selection, suspension, and removal of appointed employees is governed by state law. See NMSA 1978 §§ 3-11-5-3-11-6. Appointed employees may not utilize the procedures set forth in this ordinance to challenge discipline or termination. Other provisions of this ordinance apply to appointed employees unless otherwise specified.

D. Full-Time Employee. A full-time employee is a classified employee who works thirty (30) hours or more each week.

E. Hourly Employee. An employee whose compensation is based on the actual number of hours worked.

F. Part-Time Employee. A part time employee who is scheduled to work fewer than thirty (30) hours each week.

G. Salaried Employee. An employee whose compensation is a fixed amount per year, and not based on the actual number of hours worked.

H. Supervisory Public Safety Employees. Lieutenants serving in the fire department, and other supervisory public safety employees expressly designated by the City Manager, serve at the pleasure of the City Manager, and may not utilize the process for challenging discipline or termination set forth in this ordinance. Other provisions of this ordinance apply to supervisory public safety employees unless otherwise specified.

I. Probationary Employee. An employee is classified as "probationary" until his or her probationary period is successfully completed. An employee whose probation has not been completed is an at will employee whose employment may be terminated without cause or advance notice.

J. Unclassified Employee. An unclassified employee is an employee who is not hired through the normal personnel selection procedures, or who is designated as unclassified by the City Manager. An unclassified employee is not a classified employee or a regular employee and an unclassified employee's employment is generally not governed by this Personnel Ordinance. If a given policy is silent as to its application to unclassified employees, it does not apply. An unclassified employee is an at-will employee whose employment may be terminated without cause or advance notice. Unclassified employees may not utilize the processes for challenging discipline or termination set forth in this ordinance. Unclassified employees are eligible to receive certain benefits, but only as specifically set forth herein.

K. Temporary Position / Casual employee A position created for services needed on a temporary or seasonal basis. A classified position may be filled by a temporary employee due to a temporary absence of an employee or other circumstances. A temporary position shall not exceed nine (9) months in duration. A temporary employee is an at will employee whose employment may be terminated without cause or advance notice. A temporary employee does not accrue leave, does not receive benefits, and is not paid for holidays. Termination of a temporary employee may not be challenged under the procedures set forth in this ordinance.

L. Pro Re Nata (PRN) Position. A position created to provide services on an as needed basis. Employees holding PRN positions are not guaranteed to work any particular number of hours each week. Employees holding PRN positions will be compensated on an hourly basis, do not accrue leave, and are not paid for holidays. Employees holding PRN positions are unclassified employees unless otherwise designated by the City manager. Employees holding PRN positions are employed at will, may be terminated without cause or advance notice, and may not challenge termination under the procedures set forth in this ordinance.

M. Changes in Status. Only the Village Council may change the status of a position from unclassified at-will to classified and only if the position is not made unclassified at-will by statute. If the Village Council approves a change of status of a position from unclassified at-will to classified, and the employee affected has not completed six (6) months of service, the employee shall serve the remaining time up to six (6) months on probation. The probationary status may be extended pursuant to the applicable section of this Ordinance.

V. RECRUITMENT AND SELECTION

A. Goal: It is the goal of the Village to hire the most qualified person for an open position.

B. Posting of Open Positions. All vacant positions shall be posted on Village bulletin boards or the Village's internet web site and may be advertised in newspapers or trade publications. A qualified employee who submits a timely application for a posted, vacant position may be interviewed along with qualified external applicants.

C. Employment Applications. Applicants interested in applying for an open position shall submit an application on the form provided by the Human Resources Department or online at www.angelfire.nm.gov. If the solicitation requires, a resume, copies of certificates, diplomas, licenses, or other credentials, shall be submitted with the application. Submission of false information in connection with an employment application is grounds for immediate termination, even after completion of an employee's probationary period.

D. Initial Screening. Following the closing date, the Human Resources Department will screen the application and determine whether the applicant possesses the minimum qualifications for the position, whether the applicant has a satisfactory employment history, and whether any false or deceptive statements are present on the employment application. All applications must be received by the closing date and must include copies of all necessary transcripts, licenses, and certifications. Resumes shall not be accepted in lieu of the official application, but may be submitted in connection with an application, or requested as part of the application. An applicant who does not meet the minimum qualifications of the position shall not be considered further and will be notified of that fact. Background checks may be

required after an applicant becomes a finalist for a position. The Village may require a background check for applicants for law enforcement positions at any time.

E. Offers of Employment. Any offer of employment shall be made contingent upon successful completion of all required pre-employment medical examinations, drug and alcohol screenings, satisfactory background checks, and compliance with immigration law requirements. Any offer that does not comply with the requirements of this section is invalid. If an applicant declines an offer at any stage of the hiring process, he or she will not receive any further consideration for the position.

VI. PROMOTION, ELIGIBILITY LIST

A. Promotion. Notwithstanding anything herein to the contrary, a vacant position may be filled by promoting a qualified individual employed within Village government without the necessity of opening the position for applications.

B. Eligibility Lists. Lists of qualified applicants may be developed and maintained for the convenience of the Village in obtaining qualified applicants for positions. Each person on such an eligibility list shall be prequalified, tested, and interviewed for the position so that no further procedures are necessary to offer the person a position. Eligibility lists may be used in conjunction with other recruiting procedures. Placement on an eligibility list shall in no way guarantee appointment to any vacant position, nor shall it guarantee that any applicant will obtain a position or that the application will even be considered. It is the obligation of a person seeking employment to keep the Village informed at all times of their interest in openings and make timely application for each position. Persons on an eligibility list may be offered a position when one becomes available without the necessity of opening the position for applications.

VII. PRE-EMPLOYMENT MATTERS

A. Medical Examination. Each person who is offered a public safety position must successfully undergo a pre-employment medical examination. Medical examinations may in the discretion of the Village be required for other positions. If the medical examination shows that the applicant is not qualified for the position sought or discloses a disability which cannot be reasonably accommodated without undue hardship in the position sought, the offer of employment may be withdrawn.

B. Pre-Employment Drug and Alcohol Testing. Each person who is offered employment shall successfully undergo pre-employment drug and alcohol testing as a condition precedent to obtaining employment. The testing shall be performed by a health professional of the Village's choice, at the Village's expense. All applicants must be drug-free or alcohol-free at the time of the pre-employment drug test. For purposes of this section "drug" means any substance that is illegal under the laws of the United States or the State of New Mexico, or which may be lawfully used but is being misused by the applicant. Applicants who receive a positive test will be denied employment and shall not be considered for employment for another position for twelve months. An applicant receiving a positive test may be given the opportunity to demonstrate a positive test was indicative of legal use of a drug. The Village will not decline to hire an applicant for a non-safety sensitive position based on medical cannabis use authorized by the Lynn and Erin Compassionate Use Act, NMSA 1978 §§ 26-2B-1.

C. Pre-Employment Background Check. A person offered employment may be required to successfully undergo a pre-employment background investigation as a condition precedent to obtaining employment.

D. Immigration Law Compliance. Each person offered employment shall complete an Employment Eligibility Verification Form I-9 and present appropriate documentation establishing identity and employment eligibility as a condition precedent to obtaining employment. Former Village employees shall not be required to re-establish eligibility if they have completed a Form I-9 and established identity and eligibility within the past three (3) years.

E. Ineligibility for hire and rehire. An applicant may be considered ineligible for hire or rehire if the applicant has knowingly made any false statement or fraudulent omission on the employment application; has not met the requirements and qualifications for the position; has failed pre-employment examinations or screenings or other requirements; not bondable and the position in question requires bonding; not been certified by a physician that he or she can perform the physical requirements or essential job requirements; or a person who has previously been fired from the village as a result of disciplinary action. Criminal convictions may be considered but shall not be an automatic bar to employment.

VIII. EMPLOYEE IN-PROCESSING/ORIENTATION

A. Orientation. Each new employee is required to complete employee in-processing on the first day of work. During the orientation, the Human Resources Department will explain Village benefits, the employment relationship, and distribute enrollment forms. The employee will receive a copy of this Personnel Policy and will be instructed to review it. Next, the employee shall receive orientation at the hiring department. A representative of the hiring department shall explain the employee's duties, the department's work standards, the department's internal policies, the hours of work, lunch and break schedule, when and whom to report absence from work, methods of recording time worked, and the department's safety rules and procedures. The hiring department shall also provide a tour of the department, show the employee where the safety or protective equipment is located and introduce the employee to co-workers.

IX. PROBATION.

A. Probationary Period. Each person offered employment shall begin employment as a probationary employee who may be terminated without cause or advance notice, and without a right to seek a hearing or other relief under the provisions of this ordinance. The probationary period for police and fire department employees will be twelve (12) months if uncertified, or six (6) months if certified. The probationary period for all other employees shall be six (6) months. In order to become a regular employee, a new employee must successfully complete the probationary period, as determined in a performance evaluation given at the end of the period. The probationary period is used to evaluate the new employee's capabilities, work habits, and overall performance. The probation period shall commence when the employee begins Village employment. Any significant absence during the probationary period shall automatically extend the trial period by the length of the absence.

B. Extending the Probationary Period. If the probationary period does not allow sufficient time to thoroughly evaluate the employee's performance, or if there are concerns regarding the employee's performance during that period warranting further evaluation, the probationary period may be extended for an additional ninety (90) days with approval of the Village Manager.

C. Limitation on Transfers. To prevent excessive turnover, the Village Manager may designate a position as one in which an employee selected for the position shall not be eligible to compete for another position within the Village during the employee's probationary period.

D. Paid Time Off During the Probationary Period. A probationary status employee shall accumulate PTO ("paid time off") during the probationary period; however, PTO is only available for use after completion of thirty (30) days of continuous, satisfactory employment.

E. Evaluation. During the probationary period, police and fire department employees subject to a twelve (12) month probationary period shall be evaluated at six (6) and twelve (12) months on the job. All other employees shall be evaluated at three (3) and six (6) months on the job. A satisfactory performance evaluation at the end of the probationary period is a necessary precondition to transitioning an employee out of probationary status.

X. CONDITIONS OF EMPLOYMENT

A. Hours of Work. Full-time employees are expected to work at least thirty (30) hours per week. Hourly employees must report to work *no earlier* than ten (10) minutes prior to the beginning of the shift and remain at work *no later than* ten (10) minutes after the conclusion of the shift, unless otherwise authorized by the supervisor.

B. Absences. When conditions such as illness, personal circumstances, or weather prevent the employee from working, the employee shall notify his/her immediate supervisor no less than one (1) hour before scheduled to arrive at work. Failure to notify the supervisor in a timely manner is grounds for disciplinary action. In cases of excessive absenteeism, the employee may be required to submit to a medical examination prior to returning to work. Unauthorized absences (those not approved by the immediate supervisor) will be grounds for disciplinary action. Unauthorized absence from work for three (3) consecutive work shifts will be considered abandonment of the job.

C. Breaks. Lunch breaks are without pay and are normally one (1) hour, except for departments with established thirty (30) minute lunch breaks. In addition, each employee may take two (2) breaks per day, one in the morning and one in the afternoon, each for a period of fifteen (15) minutes. Supervisors may limit or delay breaks if, in their opinion, continuous work is required, and the entire break or remainder of a break will be taken at a later time or the same day as determined by the supervisor. Breaks will not be accumulated.

D. Remote Work. Employees may, at the discretion of the Village Manager with a recommendation from the Department Head, be permitted to work remotely on a temporary or long-term basis. Candidates for remote-work arrangements must be trustworthy, disciplined, self-motivated, and possess good time management and organizational skills. Not all positions are suitable for remote-work arrangements. Conditions of the remote-work arrangement shall be defined by the supervisor. While working remotely, employees must adhere to all conditions and terms of employment.

The Village Manager and an employee's supervisor retain discretion to determine that a remote position is no longer in the best interests of the Village, or to modify remote work arrangements. The Village Manager or supervisor may at any time require a remote employee to work in the office.

E. Modified Duty/Light Duty

An employee who has been on authorized leave due to an illness, pregnancy or other medical consideration, upon release from his/her physician, may be permitted to return to work in a temporary modified duty assignment (Light Duty) within Village, if such position is available and/or the Department Head has a position available which does not jeopardize or aggravate his/her physical condition. The intent of this provision is to permit an employee to return to work as soon as it is medically permissible for him/her to do so.

XI. INCLEMENT WEATHER

A. Inclement Weather and Other Unplanned Closures. The Village will make every effort to be open for business on scheduled workdays; however, there may be situations where conditions make it impractical to do so. These include but are not limited to severe weather, declaration of emergencies, and utility disruptions. In the case of such events, employees will be categorized as either essential or non-essential personnel.

1. Essential: Fire, EMS, Police, Water, Wastewater, Streets, and the Village Manager. Essential employees are required to be on the job regardless of conditions.

2. Non-essential: All employees not listed above.

3. Designation of other essential employees: Department Heads have authority to designate additional personnel as essential based on the nature and severity of the weather event. If additional personnel are required, the Village Manager and/or Department Heads will make every effort to provide an employee advance notification; however this may not always be possible.

B. Procedure. This procedure applies to all Village employees, and governs employees' obligations regarding reporting to work and use of PTO when circumstances impact the organization's ability to be open, to ensure continuation of Village services to citizens and visitors.

1. All employees, whether considered non-essential or essential services personnel, are expected to make an effort to report to work at their scheduled time regardless of weather conditions. However, if a non-essential employee is concerned that driving conditions such as ice and snow, present a danger to their safety, they may elect to use a vacation (PTO) day. They must notify their respective Department Head/Supervisor within thirty (30) minutes of the start of their scheduled shift and may use accrued paid time off or personal leave to cover their absence. Employees that fail to notify their respective Department Head/Supervisor of the absence or within the stated time frame will be subject to disciplinary action.

2. The Village Manager, or designee, has the authority to close or delay services within the Village for non-essential personnel. In the event of an officially declared closure, all non-essential employees will be permitted to work remotely..

3. In the event of the aforementioned closure, all FLSA non-exempt employees (both essential and non-essential) who are physically present for work during the closure will receive a 7.5% shift differential for hours actually worked in person during the closure. Employees receiving a shift differential for regularly assigned work during a pay period are not eligible to receive an additional 7.5% differential in the same pay period under this provision. .

4. All essential employees have policies and job descriptions in their Departments, that outline their duties as an emergency worker. The head of their Department has the authority to set policy as to their official work schedule and/or emergency or weather related time off.

XII. DRESS AND PERSONAL APPEARANCE

A. Dress. Employees should present the best possible image to the public and should always be as clean and neatly dressed as the work assignment allows. If a uniform is prescribed for an employee's function, it shall be worn at all times while on duty. Employees not wearing a uniform should be identifiable by as Village employees through Village-specific attire, or a name tag. Failure to wear designated uniforms or to be identifiable as a Village employee while on duty will be considered insubordination. (unless authorized by the Department Head for special events, court appearances, or other assignments) Uniforms shall not be worn during off duty time (except when commuting to and from work) or in combination with non-uniform clothing. Unduly casual clothing, evening wear, midriff bearing tops or other revealing attire, shorts, ripped clothing, or clothing not suited for an employee's duties are not appropriate for Village work.

B. Uniforms. Uniforms that are paid for and supplied by the Village must be returned to the Village upon separation or termination of employment. Employees not required to wear a uniform shall wear clothing and footwear which are professional, neat, clean, not frayed or torn and suitable for the job being performed. Only Village logos may appear on apparel and headwear.

C. Personal Hygiene. Hair should be clean and beards, if worn, neatly trimmed; hair and beards must be an appropriate length for the work performed. If your job requires, personal hygiene and grooming must adhere to standards established for the department so as to not be offensive. Visible tattoos that are offensive, hateful, or vulgar must be covered while working or in a capacity that represents the Village.

D. Enforcement: An employee's supervisor may direct an employee to make appropriate attire changes. An employee may also be sent home without pay if the department director and/or Village Manager determine the attire, appearance or personal grooming of the employee to be inappropriate or offensive. Failure to comply with these standards, or to wear clothing required for performance of an employee's duties, are grounds for disciplinary action.

XIII. POLITICAL PARTICIPATION

A. Campaigning. A Village employee shall not campaign, distribute literature, wear political buttons or clothing or solicit political contributions for themselves or another candidate while on the job, nor shall they represent or appear to be representing the Village at political meetings or political activities. In addition, material and literature regarding candidates shall not be dispensed on any Village premises or out of Village vehicles. Employees shall not be coerced into campaigning for a Village Elected Official to ensure continued employment with the Village.

B. Seeking Office. An employee seeking a Village elected office may not continue Village employment beginning thirty (30) days prior to the election. Candidates shall abide by any other applicable provisions of state or federal law concerning campaigning.

C. Voting Rights. Nothing in this Personnel Ordinance shall deny employees the right to vote as they choose.

D. Voting. During an election, an employee who is registered to vote and whose hours of work do not allow sufficient time for voting shall be allowed the necessary time off with pay for this purpose, not to exceed two (2) hours.

E. If Elected. A Village employee or volunteer who is elected to a position on the Council shall resign from that position before taking office.

XIV. OUTSIDE EMPLOYMENT

A. Outside Employment. Employees may obtain outside employment or engage in outside work if there is no conflict with regular working hours, the employee's efficiency is not reduced, and the employee's absenteeism is below 20%. Employees must notify their department manager of any outside work employment. If an employee's outside work interferes with the performance of his or her position with the Village, the employee will be required to terminate the outside work or employment immediately. Outside work or employment that constitutes a conflict of interest is prohibited.

XV. RESPONSIBILITY FOR VILLAGE PROPERTY

A. Care of Village Property. Each employee is responsible for Village equipment or property which he or she uses. The employee assumes the sole and complete responsibility for the condition and use of equipment or property entrusted to the employee. The cost of repairing or replacing property or equipment damaged by negligent acts of the employee may be deducted from the employee's pay.

B. Care of Equipment and Vehicles. Each employee who is entrusted with the use of Village equipment or motor vehicles is expected to exercise reasonable care in their use, assure regular maintenance, and follow all operating instructions, safety standards, and guidelines. Any improper, careless, negligent, destructive, or unsafe operation of equipment or a vehicle may be considered unsatisfactory performance of duties and result in disciplinary action. Each employee must notify the supervisor if any equipment, machine, tool, or vehicle appears to be damaged, defective, or in need of repair. This is essential to prevent the deterioration of equipment and possible injury to the employee or others. If Village equipment or a vehicle is damaged as a result of an employee's neglect of his or her responsibilities in this section or as a result of gross negligence, the cost of repair or replacement may be deducted from the employee's net pay. No Village equipment or vehicle will be used in any way for any personal gain or outside employment.

XVI. MINIMUM QUALIFICATIONS

A. In General. All employees in positions that require certification, licensure, continuing education units (CEU's), etc., are required to maintain such certification, licensure, CEU's, etc., as a condition of employment. Failure to maintain the required minimum qualification may result in demotion or termination of employment.

B. Driver's Licenses. Any employee whose duties require that the employee drive a motor vehicle on Village business must possess a valid New Mexico State Driver's License of the appropriate classification and endorsement(s). If an employee's driving privileges are suspended or revoked, the employee must immediately notify his or her supervisor and immediately discontinue driving any motor vehicle on Village business. Any employee who fails to report a suspension or revocation may subject an employee to disciplinary action, up to and including termination. In an effort to reduce liability and assure legal compliance all employees that drive a Village owned vehicle as part of their duties or assignments will be subject to Department of Motor Vehicle driver's license monitoring to assure the employee maintains a current and valid driver's license.

C. CDL Licenses. Any employee whose duties require him or her to hold a Commercial Drivers' License (CDL) is responsible for maintenance of that license.

D. Training. Employees may be required to take periodic safety-related training in connection with the New Mexico Municipal League, or other trainings in the best interests of the Village, employee, or public.

XVII. NEPOTISM

A. Nepotism Prohibited. The employment of immediate relatives in the same department or office is strongly discouraged

so as to avoid interpersonal conflicts and favoritism. No person shall be employed in a department that is to be supervised by a person related by consanguinity (blood) or affinity (marriage) within the third degree, unless first approved by the Village Council.

XVIII. PERSONAL RELATIONSHIP IN THE WORKPLACE

A. Employee Off Duty Conduct. Employee off-duty conduct is generally regarded as private, as long as such conduct does not create problems within the workplace. An exception is romantic or sexual relationships between supervisors and subordinates. It is strictly prohibited for an employee in a supervisory position to supervise another employee with whom he or she is romantically or sexually involved. A supervisor who becomes sexually or romantically involved with an employee whom he or she supervises must immediately disclose the existence of the relationship to his or her immediate supervisor and the Personnel Director. One of the employees may be transferred to another position or department, which may result in a reduction in pay. The employee with the more senior position will be considered for transfer first to avoid any perception of retaliation against the less senior employee. If no opportunity for a transfer exists, the senior employee will be required to resign. Failure to resign will result in termination. Failure of an employee to disclose that they are involved in a romantic or sexual relationship with their supervisor or their subordinate shall result in disciplinary action up to and including termination. The provisions of this policy apply regardless of the sexual orientation of the parties involved.

XIX. CRIMINAL ACTIVITY

A. Allegations of Criminal Conduct. All complaints or allegations of criminal conduct on the part of any employee will be referred to the Police Department or other appropriate outside agency for investigation. Any employee who engages in criminal activity may be subject to termination separate from any criminal proceedings. An employee shall immediately inform his or her supervisor if the employee is charged with a crime. All employees are required to cooperate and participate in investigative and/or disciplinary matters pursuant to *Garrity v. New Jersey* but are not required to give up their Miranda rights where they have been or might be charged with or arrested for a criminal offense. Failure to comply may result in disciplinary action up to and including termination.

B. Search and Seizure. Employees are advised that the work area is subject to reasonable search by the Village. Employees are further advised that they do not have an expectation of privacy in the work area in most cases, and should therefore refrain from keeping personal items or property in the work area. Purses, backpacks and suitcases are generally not subject to search. Village-owned vehicles, equipment, lockers, desks, cubicles, file cabinets, computers or telephones, even though used by a single employee, may be searched upon reasonable suspicion that a violation of this Ordinance or a collective bargaining agreement exists. Nothing in this paragraph shall prohibit the Village from searching the work area for work-related, non-investigatory reasons.

XX. PERSONAL USE OF VILLAGE PROPERTY

A. Use for Profit or Personal Gain. An employee shall not use Village property for personal use, for profit, for gain, or as part of secondary employment. Use of Village property in violation of this policy may result in termination. Some limited personal use of Village property is permitted. Examples of authorized personal use include use of an assigned Village vehicle to drive to lunch, the use of a Village copy machine at cost, diverting from an assigned task to run a personal errand when it can be done on the way to or from the assigned destination and other nominal personal uses. Village telephones may be used for personal business on a limited basis. An employee may receive personal telephone calls and messages at work, but the calls and messages must be brief, of a limited number, and must not interfere with the employee's work. Personal use of Village computers and internet is also permitted on a limited basis. The Village may monitor use of its property and resources. Employees should have no expectation of privacy when utilizing Village property for personal use. Excessive use of the Village's property for personal use may result in disciplinary action. Common sense in the privilege should be exercised.

B. Village credit cards and WEX cards may be utilized only for authorized Village expenses and in accordance with all Village policies concerning purchases and procurement.

XXI. PERFORMANCE EVALUATIONS

A. Introduction. A formal performance evaluation of each employee may be conducted to provide the supervisor and the employee an opportunity to discuss job performance, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals.

B. Evaluation Procedure.

1. Date of Evaluation. Performance reviews will typically occur for all employees in May of each year. Each employee on probation must receive performance reviews after three (3) months and six (6) months of employment, except for probationary public safety employees, who must receive performance reviews after six (6) months and twelve (12) months of employment. These provisions also apply to employees who are on probation following a promotion or transfer. An additional performance evaluation may be scheduled as deemed necessary by an employee's supervisor or the Village Manager.

2. Evaluation Form. When a performance review is initiated, the supervisor shall complete the Performance and Development Plan (PDP) provided by Human Resources. The PDP form is used to record performance criteria, dates of periodic reviews, and results of the annual reviews, or other required performance evaluations. A PDP is developed on each employee and becomes part of the employee's personnel file. Prior to the performance evaluation, employees will be asked to complete a self-evaluation.

3. Conduct of Evaluation. The performance evaluation shall be conducted in person by the employee's immediate supervisor, at which time the completed evaluation form shall be presented to the employee. Before becoming effective the performance evaluation shall be reviewed, and if appropriate, approved by the Department Head/Elected Official.

C. Objecting to the Employment Evaluation. If an employee wishes to rebut a performance evaluation, the employee may complete a rebuttal statement on the place provided on the performance evaluation form or prepare a separate statement. An employee aggrieved at a performance review may request review by the Department Head and/or further review by Human Resources. Neither the Department Head nor Human Resources is not obligated to take any action when asked to undertake such a review. Employees may not challenge performance reviews under any provision of this ordinance.

XXII. CONFLICTS OF INTEREST

A. Private Gain May Result in Termination. Termination may result from a conflict of interest that results in private gain to the employee or detriment to the Village. Therefore, each employee must perform his or her assigned tasks without actual, potential or apparent conflicts of interest, particularly with vendors of the Village.

B. Examples of Conflicts of Interest. Examples of potential conflicts of interest include, but are not limited to, the following: (1) a direct or indirect financial interest in any sale or lease to the Village of goods or services; (2) accepting a gift, gratuity, or favor from a vendor; (3) a close, personal friendship with a vendor which influences a transaction; (4) outside employment with a vendor; (5) influencing a decision of the Village for personal gain of the employee or any family member; and/or (6) disclosure of confidential information to a private interest.

C. Employees Participating in Procurement. Employees should exercise extreme care when involved in procurement to avoid any prohibited conflict of interest. Extreme care is justified because violations of the Procurement Code carry severe criminal penalties. See N.M.S.A. 1978, § 13-1-199 (certain violations of the Code are felonies). Any employee involved in procurement is under a continuing obligation to disclose any actual, potential or apparent conflicts of interest so that safeguards can be established to protect the Village. See N.M.S.A. 1978, § 13-1-190. Employees with questions should consult Human Resources and review the Procurement Code, N.M.S.A. 1978, §§ 13-1-190, 13-1-193, 13-1-194 and 13-1-199.

XXII. PERSONNEL RECORDS

A. Personnel File. A personnel file will be maintained on each employee. The personnel file shall be maintained by the Human Resources Department in a secure location. The personnel file shall include

the employee's job application, resume, test results, training records, performance appraisals, disciplinary records, employment agreements and a copy of each Personnel Action issued to the employee. The Personnel File is the property of the Village. Only one personnel file shall be maintained; departments shall not keep a secondary personnel file except that a training coordinator or department head may keep training records that are required pursuant to professional licensure reporting.

B. Inspection of Personnel File. Each employee shall be permitted to review his or her personnel file. The Human Resources Department may establish reasonable rules to govern when, and in what manner, such a review may be accomplished. The employee shall not be permitted to remove anything from the personnel file but may add a separate supplemental statement to rebut negative statements found therein or make photocopies.

C. Access To Personnel Files. Access to personnel files is strictly restricted by law. Accordingly, access to an employee's personnel file will be limited to persons with a legal right to examine the file. A supervisor shall be permitted to examine the personnel file of an employee under his or her direct supervision, but only if there is a legitimate business reason to do so.

D. Inquiries Concerning Present and Former Employees. Only the Human Resources Department is authorized to respond to inquiries regarding present and former employees. Responses to such inquiries will confirm dates of employment, wage rates, and position(s) held *only*. No further information will be released without a written authorization and notarized release signed of the individual who is the subject of the inquiry, and in some cases, a HIPPA-compliant release.

E. Medical Files. Medical information on each employee and dependents which is obtained by the Village will be maintained in a separate medical file. In the event the Village obtains medical information for purposes of evaluating eligibility for employment, assessing fitness for duty, reviewing a request for accommodation, or evaluating drug or alcohol use, such information may be reviewed only by Human Resources, the direct supervisor involved in the decision, and the Village Manager. Such information may then be maintained in the employee's medical file. The medical file is a confidential file and may be inspected only by those with a legal right to do so. A HIPPA compliant release may be necessary. Any employee who is permitted to inspect such a file has a responsibility to respect and maintain the confidentiality of employee medical information. Anyone inappropriately inspecting a medical file, or disclosing its contents, is subject to disciplinary action, up to and including termination of employment.

F. Personnel Data Changes. Each employee must within five (5) days notify the Human Resources Department of any changes in the employee's mailing address, telephone number, number and names of dependents, individual(s) to be contacted in the event of an emergency, educational accomplishments, and other relevant information.

G. Job Descriptions: Job titles and job descriptions are established or amended by the Village Manager, Human Resources, and department directors. Department directors must draft, and periodically review, job descriptions for all positions in their department. Proposed job descriptions will be reviewed and revised by Human Resources, and approved by the Village Manager. Each department director shall maintain a copy of current job descriptions for job titles assigned to that department and is responsible for keeping descriptions current and accurate. Job descriptions are the basis for recruitment, selection and promotions. They act as guidelines for duties typically performed in a position, but are not intended to detail every duty an employee may be asked to perform. Employees are encouraged to provide feedback to their immediate supervisors concerning their duties and potential revisions to their job descriptions.

H. Employment Applications. The Village relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the Village's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

XXIII. PAY PERIODS, PAY CHECKS, AND TIMEKEEPING

A. Pay Period. A "pay period" is a two-week period beginning Sunday at 12:01 a.m. and ending Saturday at midnight. This method of payment results in twenty-six (26) pay periods per year.

B. Paychecks. Paychecks will be issued every other Thursday at a time and place determined by the Village Manager. If a holiday falls on Thursday, checks will be issued on Wednesday. Paychecks may be issued early,

but only in cases of emergency, and only after approval of the Village Manager. Paychecks may be released to a designee of the employee upon presentation of written authorization.

C. Time Sheets. Time records shall be completed and submitted by the employee and approved by the employee's immediate supervisor. At the completion of each pay period, after approval of the supervisor and the Department Head or Village Manager as appropriate, the time records will be forwarded to the Finance Department.

D. Accuracy of Time Records. It is the responsibility of each employee to accurately record the time spent on the job performing assigned duties. Each employee must certify the accuracy of all time recorded. If the employee makes any corrections or modifications to the time record after submission, the supervisor must approve those corrections or modifications.

XXIV. COMPENSATION

A. Pay Plan. The Village has a pay plan. The standards for development of the plan are determined by the Human Resources Department and approved by the Village Manager. The Human Resources Department will make periodic studies of the pay plan and recommend changes as needed. Department Heads must prepare a pay scale for their departments, which must be approved annually by Village Council as part of the budget. The pay plan may be inspected in the Human Resources Department during regular business hours.

B. Parity. There is no requirement that all individuals assigned to the same salary range or position receive the same pay. Factors such as merit increases, promotions, seniority, or qualifications may cause individual pay differences within a salary range or position.

C. Initial Pay Rate. Newly hired employees entering the Village work force are paid within the established hourly rate or salary of the position and at a level based on experience and qualifications. Consideration of prior experience or expertise may be granted when establishing an employee's initial pay rate. Any exception to this practice must have the prior approval of the Village Manager.

D. Pay Increase. Employees may receive a salary increase by means of a Village-wide increase, cost of living adjustment, promotion, reclassification of a pay grade or salary level, positive work performance, a positive performance evaluation, acquisition of new skills, assignment of additional duties, advanced education, longevity, or market data. All pay increases must be budgeted and approved by the Village Manager.

E. Promotion. An employee may also see a pay increase as a result of a promotion. A promotion occurs when an employee is selected for a position that has higher pay. The Village encourages employees to apply for promotions and to develop the skills necessary for promotions. An employee who is promoted shall receive a salary increase to at least the minimum level of the salary grade for the new position and the resulting salary must be equal to or greater than the employee's current salary.

F. Overtime. Nonexempt hourly employees may occasionally be required to work in excess of 40 hours per week. Work in excess of 40 hours per week is paid at a rate of one and one-half times the employee's regular hourly rate. This rate is applied to the actual hours worked in excess of 40 hours per week. Compensation for employees engaged in law enforcement and emergency response occupations may differ, according to regulations of the Department of Labor under the federal Fair Labor Standards Act. To the extent possible, overtime will be offered to employees desiring additional work, but may be required by an employee's supervisor. Each department may elect to implement a system for assigning overtime, but the supervisor retains discretion to assign overtime to any employee as necessary. Such a system is subject to revision at any time, and does not constitute a contract of employment or guarantee of overtime. All overtime work must be approved before it is performed except in the case of an emergency or duty that has been scheduled in advance. Unauthorized overtime worked may be subject to disciplinary action, except in the case of an emergency or call back.

G. Compensatory Time.

1. **Accrual.** Compensatory time is time worked by an hourly employee in excess of 40 hours per week for which the employee elects to receive time off from work in lieu of overtime pay. For most employees, compensatory time is compensated at the rate of one and one-half hours of time off from work for each hour worked in excess of 40 hours per week. Compensation for employees engaged in law enforcement and emergency response occupations may differ, according to regulations of the Department of Labor under the federal Fair Labor Standards Act. An employee must elect to take compensatory time in lieu of paid overtime before submitting their time sheet report. Use of compensatory time must be approved by an employee's immediate supervisor. Compensatory time off may be accrued, but only to a maximum of eighty (80) hours. Employees working under a 7k exemption (police, fire fighters and emergency medical service personnel) may not accrue more than one hundred forty-four (144) hours of compensatory time. Supervisors shall ensure that accrued compensatory time not exceed the limitations set forth herein.

2. **Use.** Employees may use accrued compensatory time within a reasonable time after accrual but in no event more than twelve months from the date of accrual; compensatory time shall be used before paid time off.

3. Leave Donation. Compensatory time shall not be donated to another employee.

H. Acting Pay. The Village Manager may authorize a temporary increase in an employee's hourly rate or salary for the period an employee is assigned additional duties and responsibilities of another position. The Village Manager will determine the time period of the additional duties and the amount (if any) of the salary increase in coordination with the respective department directors(s) and/or managers and the Finance Department as appropriate. When the employee is no longer performing the additional duties, the salary or hourly rate will be adjusted to the pay appropriate to the position.

I. Holiday Pay

1. Paid Holiday Schedule. The Village shall annually determine the paid holiday schedule and make the schedule available to all employees.

2. Holiday Pay. All regular employees shall receive holiday pay at their regular rate of pay for each holiday on the paid holiday schedule. Part-time employees shall receive holiday pay based on the amount of time they normally work (e.g. ½ of one day for employees who work 20 hours per week). If the holiday falls on the employee's scheduled day off, the employee shall receive holiday pay for the number of hours the employee would have normally worked on the holiday, up to a maximum of twelve (12) hours. Scheduled overtime under an FLSA 7(k) shall be counted as hours worked, but unscheduled overtime shall not be counted. If the employee works on the holiday, the employee shall be paid for the hours worked, and shall also receive holiday pay as described above, up to a maximum of twelve (12) hours. Exempt status employees whose work requirements are such that they must work on an officially designated Village holiday will receive holiday pay commensurate with the number of hours they normally work, up to a maximum of twelve (12) hours. Exempt employees may elect to take the additional holiday compensation as compensatory time.

J. Standby Pay. Standby pay is earned when an employee is required to be available to work after hours. Standby pay is 25% of an employee's hourly rate. An employee is only entitled to standby pay if their personal activities are restricted and they are required to report to work within twenty (20) minutes of being called. Employees who are simply required to carry a cell phone or pager and may pursue personal activities are not entitled to standby pay. If an employee actually works during a period when the employee is on standby status, the employee will be paid at the employee's regular hourly rate for hours worked, and will be eligible for overtime if the number of hours worked exceeds the amount of hours for which overtime is to be paid.

K. Shift Differential. Nonexempt hourly employees, and employees not subject to the FLSA who are regularly assigned to work between the hours of 7:00 p.m. and 5:00 a.m. will be paid a shift differential of 7.5% for hours worked during that time period. Shift differential shall not apply during periods of paid leave.

XXV. PAID TIME OFF

A. Goal. Paid time off is intended to provide employees with paid time off that is used for a wide variety of needs such as vacation, personal or family illness, doctor appointments, school, volunteerism, and other activities. The Village's goal in offering PTO is to reduce unscheduled absences, and to reduce the need for increased supervisory oversight regarding work attendance.

B. Requirements.

1. Each regular full-time employee accrues PTO bi-weekly in increments based on either their position or their length of service as described in the table below.

2. PTO accrues only when the employee is working or using accrued PTO for the entire bi-weekly pay period. PTO does not accrue in a pay period when unpaid leave, short- or long-term disability leave, or workers' compensation leave are taken.

3. PTO accrued shall be posted on the closing day of each pay period. PTO used shall be deducted from the employee's accrued PTO as PTO is used.

4. PTO may be used by making a timely request to the supervisor or, when PTO is used for an illness, by calling in to the supervisor. PTO is used in half-hour increments. Exempt employees shall request PTO in four (4) hour increments. Except when the requested PTO is for medical diagnosis or treatment, the department director or the Village Manager shall determine when PTO may be taken consistent with the needs of the Village.

5. Employees will be given preference for scheduling PTO time according to the continuous length of service.

6. Employees are paid for the PTO they have accrued at employment termination. Employees who give two (2) weeks' notice of employment termination must work the two (2) weeks without utilizing PTO.

7. Employees on PTO for the purpose of medical diagnosis or treatment may be required to submit a doctor's note to justify the PTO, or a release to return to work.

8. PTO shall be exhausted before unpaid leave under FMLA is taken.

C. Accrual of PTO. PTO shall be accrued according to the following schedule:

Years 0-1: 120 working hours per year, earned at a rate of 4.62 hours for each full pay period in a calendar year.

Years 2-5: 144 working hours per year, earned at a rate of 5.54 hours for each full pay period in a calendar year.

Years 6-10: 176 working hours per year, earned at a rate of 6.79 hours for each full pay period in a calendar year.

Years 11-15: 200 working hours per year, earned at a rate of 7.69 hours for each full pay period in a calendar year.

Years 16-20: 224 working hours per year, earned at a rate of 8.62 hours for each full pay period in a calendar year.

Years 21-25: 240 working hours per year, earned at a rate of 9.23 hours for each full pay period in a calendar year.

Years 26 through retirement: 264 working hours per year, at a rate of 10.15 hours for each full pay period in a calendar year.

D. Annual Carry Forward Limits

1. Regular full-time employees shall be allowed to accrue and carry forward PTO on an annual basis based on length of service, in accordance with the following schedule. Exempt employees hired in certain department director positions, by virtue of their position, experience and responsibilities, may be approved for higher annual carry forward limits than those based solely on years of service to the Village of Angel Fire. Any higher annual carry forward limit for PTO shall always be recorded in a memorandum signed by the Mayor, Village Manager and the employee and maintained in the employee's Employee File. Each regular part time employee shall accrue and carry forward one-half (1/2) of the same schedule. All carry forward limits will be adjusted as of July 1 of each year in order to coincide with the Village's fiscal calendar. All accrued PTO in excess of the employee's carry forward limits will be forfeited. Any exception to annual carry forward limits for PTO hours must be approved in writing by the Village Manager.

2. Years of service:

Years	Hours
0 – 1	120 working hours
2 – 5	212 working hours
6 – 10	264 working hours
11 – 15	300 working hours
16 – 20	336 working hours
21 – 25	360 working hours
26 – retirement	360 working hours

XXVI. BEREAVEMENT LEAVE

A. Bereavement Leave Requirements. Each full-time, part-time, unclassified and trial period employee shall be eligible to receive bereavement leave with pay in the event of the death of an immediate family member. For purposes of this section, an "immediate family member" is defined as a spouse, child, parent, sibling, grandparent, grandchild, step-parent, step-child, step sibling, foster child, father-in-law, mother-in-law, son- and daughter-in-law, and brother-in-law and sister-in-law, niece, or nephew. Bereavement leave shall not exceed forty (40) hours for non-salaried hourly employees or five (5) working days for salaried employees. In the event funeral services occur out of state, an employee may be permitted to extend his or her bereavement leave using accrued PTO. An employee shall obtain the approval of his or her supervisor prior to taking bereavement leave.

XXVII. COURT LEAVE

A. Court Leave Requirements. Each full-time regular, part-time regular, unclassified and trial period employee may take Court leave with pay when required to serve as a juror or as a witness in any state or federal court at a time when the employee would normally be working, except in a matter unrelated to the performance of the employee's duties in which the employee is a litigant. If excused from duty by the Court when four (4) or more work hours remain in the employee's workday, the employee shall return to work. If an employee elects to take Court leave with pay, any fee paid to the employee as a juror or witness must be paid to the Village.

XXVIII. MILITARY LEAVE

A. Military Leave Requirements. Each regular full-time, regular part-time and unclassified employee who is a member of a National Guard or reserve unit may obtain military leave with pay when ordered to duty with the armed forces. The duration of the paid leave is limited to that required by federal law. If the period of duty exceeds that required by federal law, the employee may use accrued vacation leave, the employee's personal leave day and/or leave without pay for the duration of the employee's duty period.

XXIX. LEAVE OF ABSENCE

A. Unpaid Leave of Absence. An employee may request and take a leave of absence without pay not to exceed four (4) months, so long as the leave, and the duration of the leave, is approved by the Village Manager in advance. An employee on unpaid leave not covered under the FMLA may maintain his/her health insurance coverage by paying the total cost of the insurance premium.

B. Return from Leave of Absence. An employee on leave of absence must contact the department director and the Human Resources Department a minimum of thirty (30) days prior to the expiration of the unpaid leave stating his or her intentions. There is no guarantee except as provided under the FMLA that the employee's former position or any position will be available to the employee upon expiration of the leave without pay. An employee who fails to timely return from leave or whose former position is no longer available will be deemed to have resigned.

XXX. SHORT TERM DISABILITY

A. Eligibility. An employee may go on short-term disability to address a serious health issue for up to two (2) weeks. Any further leave that is needed shall require the employee to use PTO or FMLA. Medical documentation of the need for a leave must be provided.

B. Extended Disability. If, at the end of the period of temporary disability leave, the employee wishes to request an extension, the employee must petition the Village Manager. The Village Manager may order a physical or mental examination at the Village's expense to justify the request. The Village Manager shall determine, after review of the medical findings, if the employee shall be granted additional thirty (30) calendar days of short-term disability leave.

XXXI. FAMILY MEDICAL LEAVE

A. Requirements. The federal Family Medical Leave Act (FMLA) provides for a leave of absence for a serious health condition, to fulfill family obligations relating directly to childbirth, adoption, or placement of a foster child, or to care for a child, spouse, or parent with a serious health condition. An employee must request family and medical leave, on a form provided by the Personnel Department. Each employee is entitled to take up to twelve (12) weeks

of family and medical leave each calendar year. Employees may be entitled to up to twenty-six (26) weeks to care for a covered military servicemember. FMLA leave is cumulative of other leave the employee may have accrued such as PTO, but may run concurrently with PTO. Eligibility is determined by reference to federal law and regulations and is assessed on a case-by case basis. If an employee has questions concerning eligibility, he or she should consult the Personnel Department. Employees requesting family leave are required to provide a statement from a health care provider concerning the need for such leave. Family and medical leave is unpaid leave. However, during the unpaid leave, the Village will provide major medical benefits, if that coverage has been elected by the employee. The employee will be required to pay to the Village the portion of the premium the employee would have had to pay had he or she still been working. Leave benefits, such as PTO, or holiday pay, will be suspended during family and medical leave. If the Family and Medical Leave Act benefit is exhausted and the employee is unable or chooses not to return to work, the employee will be terminated.

XXXII. DOMESTIC ABUSE LEAVE

A. Eligibility. An employee may take domestic abuse leave to exercise rights granted by State law. Domestic abuse leave is intermittent paid or unpaid leave time not to exceed fourteen (14) days in any calendar year, taken by an employee for up to eight (8) hours in one day, to obtain or attempt to obtain an order of protection or other judicial relief from domestic abuse or to meet with law enforcement officials, to consult with attorneys or district attorneys' victim advocates or to attend court proceedings related to the domestic abuse of an employee or an employee's family member. "Family member" means a minor child of the employee or a person for whom the employee is a legal guardian.

B. Notice of Leave. Notice of the need for leave shall be given within reasonable time prior to commencement of the leave, or within twenty-four (24) hours of commencing such leave.

C. Verification of Eligibility. Verification of the need for domestic abuse leave may be required. Verification may be made either through a police report evidencing domestic abuse of the employee or a family member; a copy of an order of protection or other court order; or a written statement by the employee's attorney, a victim's advocate, a law enforcement official or a prosecuting attorney that the employee did or is scheduled to appear in court in connection with a domestic abuse incident.

D. Charged Against PTO. Domestic abuse leave will be charged against accrued PTO, and if insufficient PTO has accrued for such purpose, the leave will be unpaid.

E. Confidentiality. Information provided to or obtained by the Village relating to allegations of domestic abuse shall be kept confidential, unless the employee consents to permit release of such information, or if a court order, subpoena or other Federal or State law requires disclosure.

XXXIII. ADMINISTRATIVE LEAVE

A. AUTHORITY. The Village Manager, or his or her designee, is the only person with the authority to place an employee on administrative leave with or without pay. Administrative leave may be utilized in the discretion of the Village Manager as is deemed necessary. An employee's direct supervisor may in emergent circumstances immediately suspend an employee on a temporary basis until the Village Manager has an opportunity to consider administrative leave. An employee may not challenge an administrative-leave decision under any provision of this ordinance.

XXXIV. INSURANCE AND PENSION BENEFITS

A. Eligibility. Insurance and pension benefits are available to all regular full-time employees. Partial benefits are available to all regular part-time employees who are regularly scheduled a minimum of twenty-seven (27) hours per pay period. See the Human Resources Department for further details.

B. Medical Insurance. Each full-time regular and full-time trial period employee, unclassified employee, Elected Official, and their eligible dependents may obtain group medical care through the Village's medical plan sponsored by the State of New Mexico. Regular parttime employees may enroll in the medical plan, and the premium is adjusted on a *pro rata* basis depending on the number of hours the employee works. For example, if a regular part-time

employee normally works a half day, the employee will pay 50% of the contribution a full-time employee would normally make. The employee's contribution shall be made by payroll deduction. The specific details of the plan are set out in a pamphlet available from the Human Resources Department. Coverage, if elected, will become effective on the first day of the third full pay period following the date the employee begins work and will continue in effect until the employee leaves employment, or until the plan is discontinued, or as otherwise provided in this Personnel Ordinance.

C. Vision Plan. Each full-time regular employee, full-time trial period and unclassified employee, and eligible dependents and spouse, may participate in the vision plan provided by the Village. The plan requires no contribution by the employee, and pays a specified sum for eye examinations, single lenses, bi-focal lenses, tri-focal lenses, lenticular lenses, contact lenses and frames. Details concerning the plan are available through the Human Resources Department.

D. Prescription Plan. Any employee and dependent who participates in the Village's medical insurance program may also participate in the prescription program. Under this program, prescription drugs may be purchased at participating pharmacies for an appropriate co payment. The amount of the co-payment changes from time to time and each employee should consult the Human Resources Department for up-to-date information and claim forms.

E. EAP. Any employee may contact a counseling service provided by the Village to receive matrimonial counseling, psychological counseling and/or drug and alcohol counseling. The service is provided free of charge. The service is confidential, unless the employee is referred by a supervisor, in which case the supervisor will be informed only whether or not the employee has participated in and completed the counseling. It is the employee's responsibility to seek assistance from the Employee Assistance Program prior to reaching a point where his or her judgment, performance, or behavior has led to disciplinary action. Any referral by the EAP to an outside treatment facility may be covered under the major medical plan (if elected), under the provisions of that plan.

F. Dental Insurance. Each full-time regular, trial period and unclassified employee, each Elected Official, and their dependents, may receive dental insurance coverage through the group dental insurance plan. The plan requires payment of a premium by the employee, which will be met through payroll deduction. The Village does not contribute to the plan.

G. Worker's Compensation. Each Village employee is covered by the Village's workers' compensation program pursuant to the New Mexico Workers' Compensation Act. The workers' compensation program provides benefits to an eligible employee who suffers a job related injury. Any employee placed on workers' compensation as a result of a work-related injury shall receive his or her regular pay or salary during the first full week of disability. Compensation for work-related injuries beyond the first week of disability is strictly limited by the Workers' Compensation Act, and nothing herein shall be construed as extending benefits under the Village program not explicitly required by the Act. Any employee placed on workers' compensation who cannot return to work within six months of the date of the accident or injury which results in the disability shall be terminated but shall be eligible to re-apply for a position with the Village pursuant to the terms of the Workers' Compensation Act. Questions concerning workers' compensation should be directed to the Human Resources Department.

H. Public Employees Retirement Association. Each eligible employee participates in the Village's mandatory retirement program, administered by the Public Employees Retirement Association ("P.E.R.A."). Eligibility of employees to participate in the program is determined by the New Mexico statutes and by P.E.R.A. Mandatory employee contributions to the plan are made by payroll deduction and forwarded to P.E.R.A. The Village also contributes to the cost of the program, but Village's contributions will generally cease while an employee is on unpaid leave of absence or on a workers' compensation absence. Might double check the workers' comp part of this. Details concerning eligibility and other details of the retirement program are set forth in the New Mexico Statutes Annotated and the publications of the P.E.R.A., which are provided to the employee directly by the P.E.R.A.

XXXV. EMPLOYEE DISCIPLINE

A. Chain of Command. The Village adheres to a chain of command structure. The Village has prepared and uses an Organizational Chart to describe the chain of command for Village decision-making. The Village Manager is the Chief Administrative Officer of the Village and is subject to direction by the Mayor, who is the Chief Executive Officer of the Village, and the Village Council. Department directors work for and report for purposes of the chain of command to the Village Manager. Each department director shall prepare the department's individual organizational chart depicting the chain of command in that department, which be provided to each employee within the department. The department director is responsible for supplying to the Village Manager and Human Resources Department a current organizational chart of the department.

B. Discipline and Disciplinary Termination.

1. Authority to Take Disciplinary Action. Supervisory and managerial personnel have the responsibility and obligation to take

whatever disciplinary actions are deemed necessary, within a reasonable period of time after the need for disciplinary action becomes apparent in the best interests of the Village. All disciplinary action shall be coordinated through Human Resources.

2. Forms of Disciplinary Action. The following are forms of disciplinary action that may be imposed in the discretion of the Village. The Village may elect to utilize progressive discipline but is not required to do so. Any appropriate form of disciplinary action, up to and including termination, may be imposed regardless of whether the employee has previously been disciplined.

i. Oral Reprimand. An oral reprimand is generally used for minor offenses or to correct minor flaws an employee's performance. Oral reprimands should be documented in an employee's personnel file.

ii. Written Reprimand. A written reprimand may be issued for an offense of a more serious nature which requires more formal action than an oral reprimand. Employees shall have ten (10) working days to respond in writing to a written reprimand. The written reprimand and the employee's response shall become a part of the employee's personnel file.

iii. Suspension.

a. A suspension may be ordered for an offense of a more serious nature or for repeat of a minor offense. An employee may be suspended for a period not to exceed ten (10) working days. During a suspension, an employee will not be paid or accrue benefits. Each suspension shall be recorded and filed in the employee's personnel file. Suspensions shall not be imposed for any salaried or FLSA "exempt" employee.

b. The duration of the suspension shall be discretionary on the part of the supervisor and shall be commensurate with the severity of the error, mistake, or conduct. Consideration may be given to previous discipline.

iv. Demotion. An employee may be demoted for an offense of a more serious nature or for repeat of a minor offense. The employee may be demoted to a lesser position for which the employee is otherwise qualified. When demoted, the employee will receive compensation commensurate with the new position.

v. Termination. Grounds for disciplinary action. Listed below are some, but not all, of the activities which are considered grounds for the severest of disciplinary actions. Grounds for disciplinary action include, without limitation, but by way of illustration, the following:

aa. Unsatisfactory performance of duties.

bb. Failure to meet the expectations set forth in a performance development plan.

cc. Producing defective work through carelessness or negligence, or concealing defective work.

dd. Personal conduct which substantially interferes with the performance of duties.

ee. Conflict of interest which results in private gain to the employee or detriment to the Village.

ff. Insubordination.

gg. Falsifying official documents or records.

hh. Misrepresentation.

ii. Absence from work or work station without permission or satisfactory explanation.

jj. Excessive absences or tardiness.

kk. Fighting, assault, or any conduct that endangers another person.

ll. Threatening or harassing an employee or Elected Official.

mm. Abusive language or conduct.

nn. Theft or vandalism of Village property.

oo. Unauthorized use or possession of Village property.

- pp. Unauthorized use of Village credit cards or resources.
- qq. Violation of safety practices.
- rr. Sleeping during work hours.
- ss. Use of, or being under the influence of, a controlled substance, or intoxicant, while on duty.
- tt. Refusing to take a drug or alcohol test.
- uu. Refusing to take a fitness for duty test.
- vv. Operation of a Village vehicle or equipment while under the influence of a controlled substance or intoxicant.
- ww. Operating a Village vehicle or equipment in a reckless or intentionally tortious manner.
- xx. Accepting a bribe or consideration given with the intent to influence the performance of duty.
- yy. Bribery or coercion of, or attempting to bribe or coerce, an employee or Elected Official.
- zz. Influencing, or attempting to influence, a Hearing Officer, other than through established procedures related to a hearing under this ordinance.
- aaa. Conviction of a felony so long as the criminal conviction directly relates to the particular employment, trade, business or profession;
- bbb. Harassment, or sexual harassment.
- ccc. Possession of a weapon on Village property (except in connection with authorized Village duties, or as authorized in this ordinance).
- ddd. Conduct causing the Village embarrassment, disgrace, or otherwise to be viewed in a negative light.

3. Procedures for Disciplinary Termination, Demotion, Suspension.

- i. **Disciplinary Process.** The following procedures apply when a supervisor proposes to suspend, demote, or dismiss a classified employee who has completed the probationary period.
- ii. **Delivery of Correspondence.** The Village will make an effort to hand deliver correspondence to the employee including but not limited to disciplinary action forms, memos, or documents. When hand delivery is not practical, correspondence will be mailed by priority mail, certified return receipt requested, or sent by electronic mail to the employee's Village email account. Such correspondence shall be considered served when placed in the mail or when the email is transmitted. Employees are required to maintain a current address with the Human Resources Department and to notify the Human Resources Department in writing when that address changes. Items will be delivered to the address of record. For the purpose of this Section, days mean workdays to include Monday through Friday and not to include holidays or time when the Village Administrative Offices are closed.
- iii. **Notification of Proposed Disciplinary Action.** To initiate the suspension, demotion, or dismissal of a classified employee or an employee in term status who has completed the probationary period, the employee's Department Director or designee will serve a Notice of Proposed Disciplinary Action on the employee. The Notice shall be approved by Human Resources, and maintained in the employee's personnel file. The Notice of Proposed Disciplinary Action shall describe the conduct, actions, or omissions that form the basis of the proposed disciplinary action, give a general explanation of the evidence of such conduct, actions, or omissions, and include the date, time and place of the pre-determination hearing.
- iv. **Pre-Determination Hearing.** The employee shall be given an opportunity to respond to the proposed suspension, demotion, or dismissal at a pre-determination (*Loudermill*) hearing. The pre determination hearing shall be recorded. The employee's immediate supervisor, Department Director/or designee, and a representative from the Human Resources Department shall be present at the pre-determination hearing. A representative of the Village Attorney's Office may be present at the pre-determination hearing. The employee has the right to have a representative of his or her choice present during the hearing. Pre-determination hearings will be held within ten (10) working days from the date of hand delivery or certified mailing of the proposed discipline. This period may be extended in the discretion of the Village, with notice to the employee. The pre-determination hearing is not an evidentiary hearing but is an opportunity for the employee to present his or her version of events. It is a check against mistaken decisions, a determination of whether there are reasonable grounds to believe that the charges against the employee support the proposed discipline.

v. **Decision On Disciplinary Action.** Regardless of whether an employee attends the pre-determination hearing, the Human Resources Director or designee shall issue a Notice of Final Action within ten (10) working days following the pre-determination hearing. The Notice of Final Action shall specify the final action to be taken, which may be upholding the proposed disciplinary action, modifying the disciplinary action, or reversing the disciplinary action, and shall describe the conduct that forms the basis for the disciplinary action, give a general explanation of the evidence the Village has, and specify when the disciplinary action will become effective. The Notice of Final Action shall also advise the employee of the appeal rights set forth below.

vi. **Appeal of Disciplinary Action.** If the employee or past employee wishes to appeal the termination, suspension, or demotion he or she shall submit a written appeal to the Village Manager within five (5) working days from the date he or she was served with the decision on the disciplinary action. The Village Manager will review all pertinent information and will either confirm, modify, or reject the disciplinary action. The Village Manager may request additional information or documentation before rendering a decision. The Village Manager will render a written decision by issuing a Notice of Final Action on Appeal within ten (10) working days from the date of receipt of the appeal.

vii. **Review.** An employee or former employee aggrieved at the decision of the Village Manager may request review of the decision before the Village hearing officer. An employee or previous employee must exhaust the administrative remedies set forth herein prior to filing a request for hearing as set forth in this Section.

viii. **Time.** A request for a post-determination hearing must be made in writing and filed with Human Resources no later than ten (10) calendar days from service of the written decision of the Village Manager. A copy of the Notice of Final Action and a statement of the specific grounds for the hearing must accompany the request.

ix. **Forfeiture.** Failure to file an appeal within ten (10) calendar days shall constitute forfeiture of the right to appeal.

x. **Hearing Officer.** The Village will select a hearing officer deemed capable of providing a fair and impartial hearing to the person or employee.

xi. **Hearing Date.** The Hearing Officer shall set a hearing date no more than sixty (60) days from the receipt of the request for a post-determination hearing. This timeline can be extended by the hearing officer for cause or by written agreement of the employee and the Village.

xii. **Representation.** The employee may represent him or herself or designate a person who is not an employee of the Village to represent him or her. The Department Director or person initiating the disciplinary action must be represented at the hearing. The employee and the Village may each choose to have an attorney as a representative at the hearing.

xiii. **Evidence/Subpoena.** Oral evidence shall be taken only under oath or affirmation. The Hearing Officer has the authority to administer oaths, issue subpoenas, witnesses and compel either party to produce documents pertinent to the hearing.

xiv. **Employee Testimony.** As a condition of employment, employees may be required to appear as witnesses in hearings. Refusal by an employee to testify in an appeal hearing is grounds for disciplinary action. The hearing shall be conducted in an orderly and informal manner without strict adherence to the rules of evidence that govern proceedings in the courts of the State of New Mexico. Irrelevant immaterial or unduly repetitious evidence shall be excluded.

xv. **Conduct of Hearing.** The Hearing Officer shall control the conduct of all parties and all other persons present at the hearing. The Hearing Officer may, under the appropriate circumstance; (1) remove any person from the hearing room; (2) close the hearing to the general public; (3) exclude all witnesses until they are called to testify; (4) continue the hearing to a later time and date; and (5) take any other action the Hearing Officer determines is necessary to ensure orderly proceedings and conduct a fair and impartial hearing. The hearing shall be recorded.

xvi. **Burden.** The Village shall have the burden of supporting the discipline and shall present its evidence first.

xvii. Presentation. Each party shall have the right to make opening and closing statements; call and examine witnesses and introduce exhibits; cross-examine witnesses; impeach any witnesses; and rebut any relevant evidence.

xviii. Administrative Notice. The hearing officer may take administrative notice of those matters of which courts of this state may take judicial notice.

xix. Forfeiture. An employee or person who files a request for a hearing and fails to appear or participate in the appeal process forfeits the right to continue the appeal. The record of the hearing shall reflect and take into consideration the employee's failure to appear or to participate in the appeal process.

xx. Decision. The hearing officer shall determine whether the disciplinary action was justified under the circumstances. The hearing officer will make a recommendation to the Village Manager within a reasonable time following the completion of the hearing. The Village Manager will render a final decision after reviewing the hearing officer's recommendation.

XXXVI. HARASSMENT AND DISCRIMINATION

A. Freedom From Discrimination And Harassment. All employees shall enjoy a work environment free of unlawful discrimination and harassment. Harassment includes the display or circulation of written materials or pictures degrading to gender, racial, ethnic, religious, minority, or other class or status, and verbal remarks or conduct offensive to, directed at, or made in the presence of members of a racial, ethnic, minority, or other protected group. Harassment also refers to bullying or other behavior or conduct which impairs morale or interferes with the work effectiveness of employees. Sexual harassment includes harassment that includes unwelcome or inappropriate sexual remarks or sexual advances, requests for sexual favors or other offensive verbal or physical conduct that is sexual in nature. This includes jokes of a sexual nature, display of photos or pin-ups of nude or scantily clad individuals or comments about a person's appearance or dress or sexual behavior.

B. Employees Engaging In Discrimination Or Harassment To Be Disciplined. Any discrimination or harassment of any employee by any other employee will not be permitted, regardless of the working relationship between the participants. Any employee found to have engaged in any type of harassment shall be subject to disciplinary action, up to and including termination.

C. Reporting and Correcting Harassment. Department Heads, managers or supervisory personnel shall immediately halt any harassment of which they observe or become aware of, by disciplinary action if necessary. In addition, each Department Head, manager, or supervisor is required to report any incident of harassment or discrimination to Human Resources. All employees are encouraged to report any harassment they witness to Human Resources. The Village will, to the extent feasible, keep reports confidential. The Village prohibits any form of retaliation against an employee for reporting harassment.

D. Making A Formal Charge. Any employee who believes he or she has been subjected to discrimination or harassment by an employee of the Village may file a formal charge of harassment with the Human Resources Director. The employee will be asked at that time to complete and sign a complaint form. Each charge for which a complaint form has been completed shall be immediately investigated by the Human Resources Director, who shall prepare a report setting forth the facts of the incident and a recommendation for action. The report and recommendation for action shall be transmitted to the Village Manager, who may instruct that the recommended action or other appropriate steps be taken. The Village prohibits any form of retaliation against any employee for filing a complaint form or assisting in an investigation.

XXXVII. EQUAL EMPLOYMENT OPPORTUNITY

A. Policy. The Village is an equal opportunity employer. It is the policy of the Village to ensure equal employment opportunity to all persons regardless of their race, religion, color, creed, national origin, age, sex, marital status, ancestry, gender, gender identity, sexual orientation, military status, physical or mental disability (unless such disability effectively prevents the performance of essential job functions required by the position), medical condition, pregnancy, child birth, or condition related to pregnancy or child birth. In addition, the Village complies with state and federal statutes, rules and regulations pertaining to equal opportunity. Through the procurement process, the Village also endeavors to

encourage those who do business with the Village to practice Equal Employment Opportunity.

B. Equal Employment Opportunity Program. In order to implement its policy of equal employment opportunity, the Village maintains an Equal Employment Opportunity Program, which consists of the following elements.

1. **Periodic Review.** The Village periodically reviews each position within the Village to ensure that the stated qualifications, salary, fringe benefits, training and educational opportunities are relevant to the tasks performed. The Village examines internal policies and procedures to identify barriers to equal employment opportunity.

2. **Training.** The Village also requires that staff and management be provided with training, information and guidance so that equal employment opportunity is assured.

3. **Job Satisfaction/Fair Treatment.** The Village actively encourages each employee to increase his or her skills and job potential through training and educational opportunities. The Village periodically offers guidance and counseling in developing programs tailored to individual aptitudes and desires. The Village works to create and maintain a pool of qualified applicants for positions with frequent turnover to encourage diversity and ensure equal employment opportunity in hiring.

4. **Non-Discriminatory Application Of Policies.** The Village works to ensure that each promotion, transfer, demotion, layoff and termination of employment is administered in a fair and non-discriminatory basis.

5. **Compliance With Applicable Laws And Regulations.** The Village complies with applicable laws and regulations relating to equal employment opportunity. In addition, the Village carries out its reporting functions required by state and federal laws and furnishes information as required to meet its commitments under Executive Order No. 11246, as amended. The Village cooperates in special compliance reviews or in investigations as requested, carries out minority reporting functions as required by state or federal laws, furnishes such information as is required and maintains an affirmative action file detailing its efforts, with dates, to meet its commitments under Executive Order No. 11246, as amended.

6. **Violations.** Any and all violations of the Equal Employment Opportunity Program must be immediately brought to the attention of the Human Resources Director.

7. **Equal Employment Opportunity Officer.** The Human Resources Director shall serve as the Village's Equal Employment Opportunity Officer. The Equal Employment Opportunity Officer shall be charged with the responsibility of administering and enforcing the Village's Equal Employment Opportunity Program. The Equal Employment Opportunity Officer shall advise and assist staff and management personnel in guaranteeing equal employment opportunity. The Equal Employment Opportunity Officer shall also provide orientation for each new employee which emphasizes the manner in which the Village assures equal employment opportunity. The Equal Employment Opportunity Officer shall recommend changes in the Equal Employment Opportunity Program and Village policies to the Village Manager, as appropriate. The Equal Employment Opportunity Officer shall coordinate the Village's response to special compliance reviews or investigations.

XXXVIII. DISABILITY

A. Prohibition of Discrimination. The Village prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, and other terms, conditions and privileges of employment.

B. Accommodation. The Village will provide reasonable accommodations to qualified applicants and employees unless accommodation would pose an undue hardship. An individual desiring a reasonable accommodation should submit a request to Human Resources.

C. Formal Charge. Making A Formal Charge. Any employee who believes he or she has been subjected to discrimination based on disability may file a formal charge of with the Human Resources Director. The employee will be asked at that time to complete and sign a complaint form. Each charge for which a complaint form has been completed shall be immediately investigated by the Human Resources Director, who shall prepare a report setting forth the facts of the incident and a recommendation for action. The report and recommendation for action shall be transmitted to the Village

Manager, who may instruct that the recommended action or other appropriate steps be taken. The Village prohibits any form of retaliation against any employee for filing a complaint form or assisting in an investigation.

XXXIX. WHISTLEBLOWING

A. Protection for Whistleblowers. The Village will protect employees who report in good faith what they reasonably believe to be a violation of state or federal law or conditions or practices that would put the health or safety of employees at risk. Employees shall report the alleged violation, condition, or practice to their supervisor and to Human Resources. No employee will be discharged, threatened, or discriminated against in any manner for reporting what he or she perceives in good faith to be wrongdoing. The right of a whistleblower to have protection from retaliation does not, however, include immunity for any personal wrongdoing that is alleged and investigated.

B. Confidentiality. Insofar as possible, the confidentiality of the whistleblower shall be maintained. But identity may have to be disclosed to conduct a thorough investigation, to comply with the law, and to provide those implicated an ability to respond.

C. Protected Activities. The following are examples of activities in which employees have a right to participate without being subjected to adverse action:

1. Filing discrimination charges with the EEOC or a state human rights agency.
2. Filing unfair labor practice charges with an appropriate agency.
3. Filing a worker's compensation claim.
4. Filing a complaint with OSHA about safety hazards or refusing an assignment because of fear that it might be dangerous.
5. Engaging in lawful union activities.
6. Claiming an equal pay or wage/hour law violation.
7. Opposing policies that may violate laws.
8. Reporting fraud, or corruption.
9. Reporting discrimination or harassment to the Village.

D. Complaints. An employee may report a potential violation of this policy to Human Resources within ten (10) days of discovering the issue. The Village prohibits any form of retaliation against any employee for filing a complaint or assisting in an investigation.

XL. RESPECT FOR COWORKERS

A. Gossip. The Village expects its employees to treat each other with respect. Gossiping is harmful to the workplace and should be avoided by all employees. Incidents of gossiping may subject employees to discipline. This policy does not apply to discussions by and among employees permitted by law, including discussions of wages and terms and conditions of employment.

B. Bullying. The Village does not tolerate bullying of any kind. An employee who uses words, threats, intimidation or other behavior to improperly influence, harm, and/or coerce another employee will face disciplinary action up to and including termination.

XLI. SAFETY AND ACCIDENT PREVENTION

A. Working Safely. Each employee must be informed of and observe established safety practices. Each employee is to take all possible precautions to avoid exposure to injury or illness to themselves or others. Each employee must utilize appropriate personal protective equipment such as steel-toed shoes, safety vests, safety glasses, and hard hats. No employee is permitted to remove guards or other protective devices from machinery and equipment. Employees shall refrain from operating, modifying, adjusting or using equipment in an unauthorized manner or working alone. Employees are prohibited from engaging in "horseplay."

B. Duty To Report Hazardous Or Unsafe Conditions. Each employee has the duty to report each unsafe working practice or hazardous condition which he or she observes so that the problem can be immediately corrected.

C. Supervision. Each supervisor has the duty to ensure that each employee is acquainted with proper safety practices and applicable safety rules, that safe practices and safety rules are uniformly followed, and that employees are properly outfitted with the proper safety equipment. In the event an accident occurs, the supervisor is required to report the incident promptly, complete the *Supervisor's First Report of Accident*, and forward the completed form to Human Resources.

D. Safety Training. Each employee is required to attend safety training sessions scheduled by the Village. In addition, each employee must obtain safety-related certification as required by the Village. Each supervisor and person in charge of a group or groups of employees is required to possess a valid first aid certificate. In addition, an alternate person in each crew or group shall hold a valid first aid card. These employees may be required to periodically attend first aid courses and obtain certification. See OSHA Medical and First Aid Standards (29 C.F.R. § 1910.151). Each employee who is required to act as flagger must complete an approved Flagging course.

E. Injuries On The Job. Each employee is required to report all job-related injuries or illnesses to his or her supervisor immediately and assist in any resulting investigation.

F. Motor Vehicle Accidents. If a Village employee is involved in a motor vehicle accident while performing his or her official duties, the employee must assist persons at the scene and request that a law enforcement officer be called. The employee should also request that the parties and the properties involved remain at the scene of the accident until a law enforcement officer has released them. The Village Manager, Safety Officer, and Human Resources must be notified of the accident as soon as possible. The employee shall refrain from making statements regarding the accident with anyone other than the investigating officers, Village Attorney(s), City Manager, Human Resources Director, and representatives of his or her own insurance company, if the employee's vehicle is involved.

G. Accidents Involving Defective Equipment. When an accident occurs that raises the possibility of defective equipment, the employee should immediately attend to any injuries of employees or others, and then refer the matter to his or her supervisor, who shall consult with the Village Safety Officer, Village Manager, and Human Resources Director.

XLII. FITNESS FOR DUTY

A. Medical Inquiries and Examinations. The Village may inquire into an employee's fitness for duty, or require an employee to undergo a medical examination if job-related and consistent with business necessity. Medical examinations may be conducted for cause when there is reliable information of a change in abilities or health that may affect performance of the essential functions of the position and threaten the safety of the employee or others.

B. Public Safety Positions. The Village may require periodic fitness for duty examinations by a qualified psychiatrist, psychologist, or physician, or other medical examinations, for employees holding safety sensitive positions, such as police, fire, emergency medical, and public works employees, when in the Village's estimation there is cause for concern and it is in the best interests of the public, Village, employee, or department.

XLIII. SOCIAL MEDIA

A. Defined. Social media is a means of communication on the internet that is accomplished by posting information for other to read, comment on, or respond to. It includes, but is not limited to communicating with others on a web log or blog, an electronic journal or diary, a personal internet website, communicating through a social networking or affinity website (e.g. Facebook, Instagram, Snapchat, TikTok, LinkedIn), a web bulletin board, chat room, instant messaging site, video or photo sharing site (e.g. YouTube), forums, discussion boards and groups (e.g. Google groups, instant messaging (including SMS), a wikior online collaboration site (e.g. Wikipedia), a blog hosted by a media outlet, geo-spatial tagging, vod and podcasting, micro blog (e.g. Twitter/X), gaming platforms, or chat rooms.

B. Social Media at Work.

1. In an effort to reach a broader audience of residents for a variety of reasons, the Village participates in social media. The use of social media allows the Village to disseminate time-sensitive information as quickly as possible (e.g. emergency information). The Village Manager shall determine which social media outlets are suitable for use, and which employees are authorized to use any given social media outlet, and the permissible content that may be communicated through social media. Employees shall not use social media at work unless specifically authorized to do so by the Village Manager or designee department head. When an employee is so authorized, the employee shall use the social media consistent with the terms of the authorization and this Ordinance.

2. Unless specially authorized to use social media at work by the preceding paragraph, use of social media at work is strictly prohibited. Likewise, unless authorized as provided, use of Village property including computers, wireless technology, cellular phones, smart phones or internet networks for social media use is prohibited. Employees are advised that Village computers, wireless technology, cellular phones, smart phones, internet networks, and other Village property are monitored. Use of Village equipment for an improper purpose will be detected and employment consequences will result.

C. Personal Use of Social Media. The Village does not prohibit employees from participating in social media while not at work, nor is the content posted any concern of the Village. However, if an employee uses social media to harm the Village, Village constituents, or fellow employees, participation in social media while not at work can have employment consequences. Employees shall not use social media to impair the work of any Village employee; to harass, bully, demean or create a hostile work environment for any Village employee. Nor shall an employee use social media to violate Village policies, ordinances, or state or federal law. To make the distinction between private activity and work activity as clear as possible, in cases where confusion might be created, each employee should identify a social media posting as a personal opinion rather than the opinion of the Village.

D. Definition. "Bully or bullying" means any repeated and pervasive written, verbal or electronic expression, physical act or gesture, or a pattern thereof, that is intended to cause distress upon one or more Village employees whether or not at work or during work hours. Bullying includes but is not limited to hazing, harassment, intimidation or menacing acts of another Village employee which may but need not be based on the employee's race, color, sex, ethnicity, national origin, religion, disability, age, or sexual orientation.

E. Identification of Inappropriate Use. If any Village employee becomes aware of inappropriate use of social media in violation of this policy, he or she is to immediately report the conduct to the Personnel Director. Violations of this policy may result in disciplinary action up to and including termination.

XLIV. SMOKE FREE WORKPLACE

A. Purpose. The purpose of this provision is to ensure that employees and members of the public have a safe and healthy work environment.

B. General Prohibition. The Village prohibits smoking, using a lighted or smoldering smoking device, lighting a smoking device, vaping, or utilizing electronic cigarettes, in any Village facility. This includes facilities owned or leased by the Village.

C. Application. This section applies to all employees and officials of the Village, visitors and members of the public, any person conducting business with the Village, and anyone driving or riding in a Village-owned vehicle.

D. Smoking Outdoors. Smoking and vaping is prohibited within twenty-five feet of an opening of any area where smoking is prohibited. When smoking outside, employees, officials and the public shall not dispose of cigarette butts on the grounds except in a receptacle designated for such disposal.

XLV. DRUG AND ALCOHOL FREE WORKPLACE

A. Policy. The Village is a drug- and alcohol-free workplace. Accordingly, no employee may use, possess, distribute, sell, or be under the influence of alcohol or drugs while on the job. Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.

B. Prescription Medication. The use of prescription medications is permitted on the job so long as such use does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner. It is the employee's responsibility to report to his or her supervisor the use of prescription medication that may impair job performance. If the employee cannot perform his or her duties while taking a prescription medication, the employee may be required to perform other duties or take sick leave until the course of treatment is concluded. A statement from the employee's physician concerning the prescription may be required.

C. Cannabis. The Village has a zero-tolerance policy for cannabis use. Employees may be disciplined, up to and including termination, on the basis of a positive drug test that indicates any amount of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite. The Village will not, however, take adverse employment action against an employee holding a non-safety sensitive position for medical cannabis use authorized by the Lynn and Erin Compassionate Use Act, NMSA 1978 §§ 26-2B-1 *et seq.*, provided that the employee is not under the influence of cannabis during working hours, on Village property, while operating Village vehicles or equipment, or while on call or standby duty. The Village may require employees to provide a registry identification card to document authorized cannabis use.

D. Drug and Alcohol Testing.

1. **Random Testing.** Each holder of a Commercial Drivers' License (CDL) and each employee in a safety sensitive or security-related position is subject to random drug and alcohol testing. A safety sensitive or security related position is one in which an employee operates equipment that is potentially dangerous to other employees or citizens of the Village, one in which an employee has access to or dispenses drugs, one in which an employee has access to or carries a firearm, or one in which an employee operates or maintains heavy equipment or coordinates, relays, or controls radio communication for law enforcement personnel.

2. **Testing On Reasonable Suspicion.** If there is reasonable suspicion to believe that an employee may be impaired by drugs or alcohol on the job, or if the employee is found with drugs and/or alcohol in the workplace, immediate drug and/or alcohol testing may be ordered. Reasonable suspicion exists when one's experience and training tends to indicate that a given person is under the influence of alcohol or a controlled substance. Acceptable indicators include, but are not limited to, odor of alcoholic beverage on the breath, slurred or incoherent speech, staggering walk, loss of physical coordination, bloodshot/watery eyes, dilated or pinpoint pupils, inability to successfully complete a field sobriety test administered by a person trained in SFST, erratic behavior, unexplained or uncharacteristic irritability, excessive tardiness, poor work performance, and excessive unexplained absences from work.

E. Procedure for Testing on Reasonable Suspicion

STEP 1. In the event any Village employee has reasonable suspicion to believe an employee may be impaired by drugs and/or alcohol while on the job, the employee's supervisor must be notified. The supervisor shall notify the Village Manager and/or the Personnel Director. The supervisor, Village Manager and/or the Personnel Director shall then together directly observe the employee's behavior and document any irregularities. Alternatively, law enforcement personnel may be asked to conduct the observation. If a test is ordered, each observer must document the specific indicators observed, within forty-eight (48) hours.

STEP 2. If reasonable suspicion exists, the employee shall be asked to execute a written consent for immediate alcohol and/or drug testing. Failure to consent to testing may be grounds for termination if the employee is a regular employee or, if the employee is a trial status employee, immediate termination.

STEP 3. If reasonable suspicion exists, and consent is given, the employee shall be immediately transported for appropriate testing. Testing may include use of the breathalyzer, blood and/or urine testing. The employee shall be transported by the Village Manager and/or the Personnel Director to the testing location. Analysis of any samples collected will be performed by a laboratory selected by the Village.

STEP 4. Following completion of testing, the employee shall be placed on administrative leave with pay until the test results are available. The Village shall transport the employee home.

STEP 5. If the testing discloses that the employee was not impaired by alcohol or drugs at the time of the test, the employee shall return to work. If the test discloses that the employee was not impaired at the time of the test but does disclose trace amounts of alcohol or drugs, the employee shall be asked to return to work unless the presence of these substances is in violation of an agreed-upon treatment and/or return to work agreement. If the test discloses that the employee was impaired by alcohol or drugs at the time of the test, the employee may be placed on unpaid leave until a decision on continued employment is made by the appropriate Village administrator.

STEP 6. If placed on administrative leave, an employee shall be given an opportunity to provide an explanation of the positive test.

F. Consequences of a Positive Test.

1. Termination. If the results of a drug or alcohol test indicate that the employee was impaired while at work, the employee may be subject to termination.

2. Participation In A Treatment Program. An employee who is not terminated after a positive test result may be required to participate in an alcohol or drug treatment program through the Employee Assistance Program or other program as a condition of continued employment. Any employee who participates in such a program as a condition of continued employment shall be entitled to be paid their regular hourly wage or salary when completing the screening and assessment phase of the program. The employee shall be placed on unpaid leave for the rehabilitation or treatment portion of the program. However, an employee may be permitted to use accrued sick leave or vacation in lieu of unpaid leave during rehabilitation or treatment. Upon successful completion of an agreed-upon treatment program, the employee shall be permitted to return to his or her position.

3. Loss Of Driving Privileges. If the results of a drug or alcohol test indicate that the employee was impaired while at work, the employee shall not be permitted to operate any Village vehicle (or operate any personal vehicle on Village business), for a period of three (3) years, subject only to the exception below.

4. Positions Requiring Driving. In the event driving a vehicle is a requirement of an employee's position, the employee may be placed in an alternate position for which he or she is qualified. In the event there is no available position, the employee may be terminated.

G. Restoration of Driving Privileges. An employee may be authorized to operate Village vehicles at the expiration of a one-year period from the date of a positive test if the employee: (1) has not been convicted of any traffic violation since the date of the positive test; (2) has a valid driver's license; (3) has performed satisfactorily in his or her position; (4) has completed a drug use assessment by an agency of the Village's choice; (5) has followed each recommendation made as a result of the drug use assessment; and (6) otherwise satisfies the Village of the employee's sobriety and responsibility. The decision whether to permit the restoration of driving privileges is discretionary on the part of the Village and may not be challenged under any provision of this Personnel Ordinance.

H. Take-Home Vehicles. In no event shall a Village employee who has had a positive drug or alcohol test be permitted to take a Village vehicle to or from the employee's home until three (3) years have elapsed from the date of the positive test

I. Random Testing. If an employee has had a positive drug test and has not been terminated, the employee will be subject to random testing for a subsequent period of two (2) years from the date of the positive test.

J. Drug And Alcohol Related Convictions. Any employee who is convicted of a drug or alcohol related criminal offense may be terminated. Employees convicted of illegal distribution or sale of drugs will be immediately terminated. If not terminated, the employee may be required to undergo periodic random testing, may be required to complete a course of treatment, or may be required to complete a program through the Employee Assistance Program. Under the federal Drug-Free Workplace Act, any employee must notify the Village Attorney of a criminal conviction for drug related activity occurring in the workplace within five (5) days of the conviction. Any employee who is convicted of an alcohol-related driving offense shall notify his or her supervisor of the conviction within five (5) days of the date of conviction. Failure to report such convictions may be grounds for discipline, up to and including termination.

K. Drug Or Alcohol Dependency. Any employee who suffers from drug or alcohol dependency should immediately seek the assistance of the Employee Assistance Program or the appropriate resources within the community. The employee may also wish to discuss the matter in confidence with his or her supervisor or the Risk Manager. Each employee who suffers from drug or alcohol dependency is urged to seek help before being the subject of disciplinary action.

L. Motor Vehicle Operation and DUIs.

1. **Persons Convicted of DUI May Not Drive.** It is the policy of the Village that any employee who is convicted of driving under the influence of an intoxicant such as alcohol or drugs shall not be permitted to operate any Village vehicle (or operate any personal vehicle on Village business), for a period of three (3) years, subject only to the exception below.

2. **Positions Requiring Driving.** In the event driving a vehicle is a requirement of an employee's position, the employee may be placed in an alternate position for which he or she is qualified. In the event there is no available position, the employee may be terminated.

3. **Restoration Of Driving Privileges.** An employee may be authorized to operate Village vehicles at the expiration of a one-year period from the date of conviction if the employee: (1) has not been convicted of any traffic violation since the date of conviction; (2) has a valid driver's license; (3) has performed satisfactorily in his or her position; (4) has completed an alcohol use assessment by an agency of the Village's choice; (5) has followed each recommendation made as a result of the alcohol use assessment; and (6) otherwise satisfies the Village of the employee's sobriety and responsibility. The decision whether to permit the restoration of driving privileges is discretionary on the part of the Village and may not be challenged under any provision of this Personnel Ordinance.

4. **Take-Home Vehicles.** In no event shall a Village employee who has been convicted of driving under the influence of alcohol or drugs be permitted to take a Village vehicle to or from the employee's home until three (3) years have elapsed from the date of conviction.

5. **Definition.** For purposes of this policy, the word "conviction" includes pleas of guilty or no contest.

XLVI. CONCEALED CARRY

A. Authorized Concealed Carry. A Village Employee in good standing may carry a concealed firearm in accordance with New Mexico law on their person while at work, in a Village vehicle, or performing their regular or assigned duties as follows:

1. The employee has a New Mexico Concealed Carry License and has such license on their person while carrying a concealed firearm.

2. The concealed firearm is secured on their person, in a holster, or otherwise secured in a way to prevent it from accidental loss, discharge, or interfering with their assigned duties or restricts their normal movements.
3. The employee carries only one concealed firearm on their person at any time.
4. The employee follows all local, State, and Federal laws governing Concealed Carry Licensees including:
 - a. Shall not carry a firearm in any University, School, or daycare.
 - b. Shall not carry in any Court, courthouse, or courthouse waiting area without the consent of the presiding Judge.
 - c. Shall not carry a firearm on any Tribal Land unless authorized by the Governing Body of the Tribe or Pueblo.
 - d. Shall not carry a firearm on any public transit or bus.
 - e. Shall not carry a firearm in any designated Airport Security zone(s) that are posted prohibiting the carrying of firearms.
 - f. Shall not carry a firearm on any Federal property, Military base, National Park or National Wildlife Management Area(s) that has posted a notice prohibiting the carrying of firearms.
 - g. Shall not carry a firearm on private property or public access property such as a Bank, where the owner or business has posted signs prohibiting the carrying of firearms on their premises.
 - h. Shall not carry a firearm on any licensed liquor or alcohol establishment or designated portion of any business that is licensed to sell liquor or alcohol. A restaurant that sells food as its primary service and offers for on-premises sale and consumption is not a prohibited establishment unless it is posted prohibiting the carrying of firearms.
 - i. Shall not carry a concealed firearm when on any medication or restriction from a Doctor that cautions against driving or operating machinery.
 - j. Shall not carry a concealed firearm while in possession of any liquor or alcoholic beverage.
 - k. Must assure that the firearm is kept in a safe condition, such as a locked case or cabinet at any time the employee removes it from their person.

B. Officers. Any Village employee that has sworn an Oath of Office as a Peace Officer, Investigator, or is otherwise entrusted with the power of arrest or filing of criminal charges may carry a concealed firearm while in the performance of their duties so long as they also have their badge indicating their Oath of Office on their person.

XLVII. HUMAN RESOURCE ACTIONS

A. Voluntary Termination

1. Letter Of Resignation. An employee may resign from the Village by submitting a written letter of resignation to his or her immediate supervisor at least five (5) working days prior to the effective date of resignation. The letter of resignation should include the reason for leaving as well as the proposed effective date.
2. Retirement. An employee may retire from Village employment through the Village's retirement program so long as the employee meets the requirements of the Public Employees Retirement Association. An employee desiring to retire should contact the P.E.R.A. and give his or her supervisor as much notice as possible.
3. Disability Retirement. An employee may resign from Village employment in the event an injury or illness renders the employee medically incapable of performing his or her duties. If qualified, the employee may be entitled to claim disability benefits through the Public Employee's Retirement Association and/or the Village's medical benefit package. Any employee who feels he or she must resign as a result of a disability should contact his or her supervisor and/or the Personnel Director for additional information.

B. Involuntary Termination

1. Layoff. A layoff, or reduction in force, is an involuntary termination of an employee or employees as a result of a shortage of work or shortage of funds. A layoff may only be ordered by the Village Council. If a layoff is necessary, employees shall be laid off in reverse order by seniority within the department. If a position is available for which work and funds are available, an employee may accept a demotion or transfer to avoid a layoff, but only if the employee is otherwise qualified for the new position and a position exists. If a position is later reestablished, the person who was the incumbent when the position was abolished shall be given first consideration for reappointment.

2. Abolishment Of Position. The Village Manager may abolish a position which is no longer needed within the Village work force. A position may only be abolished with the approval of the Village Council. If a position is available for which work and funds are available, an employee may accept a demotion or transfer to avoid a layoff, but only if the employee is otherwise qualified for the new position and a position exists. If a position is reestablished, the person who was the incumbent when the position was abolished shall be given first consideration for reappointment.

C. Post-Employment Matters

1. Exit Interview. When an employee leaves Village employment, the employee will be scheduled for an exit interview prior to the last day of work. The exit interview will be arranged by Human Resources. At the exit interview, the employee may comment on his or her employment and may voice suggestions, complaints, and criticisms. The employee will have an opportunity to discuss benefits and benefit conversion privileges. The employee will be asked to return all Village property in his or her possession.

2. Continuance Of Medical Coverage (COBRA). Under the federal Comprehensive Budget Reconciliation Act (COBRA), eligible employees and/or dependents may elect to continue employee and/or dependent medical insurance coverage subject to the conditions and limitations set forth in that Act. Consult the Human Resources Department for details on eligibility and benefits.

3. Compensation For Accrued PTO Upon Termination. Upon death, retirement or termination of employment, each full-time regular, part-time regular, and unclassified employee will be compensated for accrued vacation time and accrued sick leave time earned through the last day of work, subject to the limitations on the amount of compensation set forth below.

XLVIII. VIOLATION OF POLICY

The Village of Angel Fire has a zero tolerance for employees who violate these policies.

XLIX. REPEAL

Ordinance No. 2019-06 shall be and hereby is repealed.

Passed, approved, and adopted this 24th day of December, 2024

BJ Lindsey, Mayor

ATTEST:

ADOPTING ORDINANCE

ORDINANCE NO. 2003-06

AN ORDINANCE ADOPTING THE ANGEL FIRE, NM VILLAGE CODE

BE IT ORDAINED by the mayor and village council of the village of Angel Fire, New Mexico, as follows:

Section 1: From and after the date of passage of this ordinance, the village code of the village of Angel Fire, New Mexico prepared by Sterling Codifiers, Inc. containing the compilation of all ordinances of a general nature together with the changes made to said ordinances, under the direction of the governing body of the village, shall be accepted in all courts without question as the official code and law of the village as enacted by the mayor and village council.

Section 2: There is hereby adopted, as a method of perpetual codification, the loose-leaf type of binding together with the continuous supplement service, provided by Sterling Codifiers, Inc., whereby each newly adopted ordinance of a general and permanent nature amending, altering, adding or deleting provisions of the official village code is identified by the proper catchline and is inserted in the proper place in each of the official copies, one copy of which shall be maintained in the office of the village clerk, certified as to correctness and available for inspection at any and all times that said office is regularly open.

Section 3: All ordinances of a general nature included in this official village code shall be considered as a continuation of said ordinance provision and the fact that some provisions have been deliberately eliminated by the governing body shall not serve to cause any interruption in the continuous effectiveness of ordinances included in said official village code. All ordinances of a special nature, such as tax levy ordinances, bond ordinances, franchises, vacating ordinances and annexation ordinances shall continue in full force and effect unless specifically repealed or amended by a provision of the village code. Such ordinances are not intended to be included in the official village code.


Section 4: It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of such code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the village to be misrepresented thereby.

Section 5: All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

Section 6: This ordinance and the code adopted by the same shall be recorded and shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED this 20th day of March, 2003

APPROVED this 20th day of March, 2003.



Mayor

ATTEST:



Village Clerk

Roll Call Vote:

AYES: 4

NAYS: 0

ABSENT: 0

TITLE 1

ADMINISTRATION

CHAPTER 1

OFFICIAL VILLAGE CODE

SECTION:

1-1-1: Title

1-1-2: Acceptance

1-1-3: Amendments

1-1-4: Code Alterations

1-1-1: TITLE:

Upon the adoption by the village council, this village code is hereby declared to be and shall hereafter constitute the official village code of Angel Fire. This village code of ordinances shall be known and cited as the *ANGEL FIRE VILLAGE CODE* and is hereby published by authority of the council and shall be supplemented to incorporate the most recent legislation of the village as provided in section 1-1-3 of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this village code by title in any legal documents. (2003 Code)

1-1-2: ACCEPTANCE:

The village code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the village of general and permanent effect, except the excluded ordinances enumerated in section 1-2-1 of this title. (2003 Code)

1-1-3: AMENDMENTS:

Any ordinance amending the village code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this village code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers, and the said ordinance material shall be prepared for insertion in its proper place in each copy of this village code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the village code. (2003 Code)

1-1-4: CODE ALTERATIONS:

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this village code in such a manner that the meaning of any phrase or order may be changed or omitted. Said code, while in actual possession of officials and other interested persons, shall be and remain the property of the village and shall be returned to the office of the village clerk when directed so to do by order of the village council. (2003 Code)

CHAPTER 2

SAVING CLAUSE

SECTION:

1-2-1: Repeal Of General Ordinances

1-2-2: Public Ways And Public Utility Ordinances

1-2-3: Court Proceedings

1-2-4: Severability Clause

1-2-1: REPEAL OF GENERAL ORDINANCES:

A. Ordinances Repealed And Ordinances Saved From Repeal: All general ordinances of the village passed prior to the adoption of this village code are hereby repealed, except such as are included in this village code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the village; and all special ordinances.

B. Limitations On Repeal: The repeal of the ordinances, as provided in subsection A of this section, shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded. (2003 Code)

1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES:

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this village code or by virtue of the preceding section, excepting as the village code may contain provisions for such matters, in which case, this village code shall be considered as amending such ordinance or ordinances in respect to such provisions only. (2003 Code)

1-2-3: COURT PROCEEDINGS:

A. Prior Acts: No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

B. Extend To All Repeals: This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

C. Current Pending Actions: Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the village herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the village under any ordinance or provision thereof in force at the time of the adoption of this village code. (2003 Code)

1-2-4: SEVERABILITY CLAUSE:

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this village code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part thereof. The village council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (2003 Code)

CHAPTER 3

DEFINITIONS

SECTION:

1-3-1: Construction Of Words

1-3-2: Definitions, General

1-3-3: Catchlines

1-3-1: CONSTRUCTION OF WORDS:

A. Whenever any word in any section of this village code importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to in this village code by words importing the singular number only, or a particular gender, several matters, parties or persons and the opposite gender and bodies corporate shall be deemed to be included; provided, that these rules of construction shall not be applied to any section of this village code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto.

B. The word "ordinance" contained in the ordinances of the village has been changed in the content of this village code to "title", "chapter", "section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to the village's ordinances is not meant to amend passage and effective dates of such original ordinances. (2003 Code)

1-3-2: DEFINITIONS, GENERAL:

Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

AGENT: A person acting on behalf of another with authority conferred, either expressly or by implication.

CODE: The village code of the village of Angel Fire.

COUNCIL: Unless otherwise indicated, the council of the village of Angel Fire, New Mexico.

COUNTY: The county of Colfax, state of New Mexico.

EMPLOYEES: Whenever reference is made in this code to a village employee by title only, this shall be construed as though followed by the words "of the village of Angle Fire".

GENDER: A word importing either the masculine or feminine gender only shall extend and be applied to the other gender and to persons.

GOVERNING BODY: The village council of the village of Angel Fire.

LICENSE: The permission granted for the carrying on of a business, profession or occupation.

NMSA: New Mexico Statutes Annotated.

NUISANCE: Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the village, or any activity which by its perpetuation can reasonably be said to have a detrimental effect on the property of a person or persons within the community.

OCCUPANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

OFFENSE: Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.

OFFICERS: Whenever reference is made in this code to a village officer by title only, this shall be construed as though followed by the words "of the village of Angel Fire".

OPERATOR: The person who is in charge of any operation, business or profession.

OWNER: As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

PERSON: Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

PERSONAL PROPERTY: Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

REAL PROPERTY: Includes lands, tenements and hereditaments.

RETAILER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

RIGHT OF WAY: The privilege of the immediate use of the roadway or other property.

STATE: The state of New Mexico.

STREET: Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

TENANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

VILLAGE: The village of Angel Fire, county of Colfax, state of New Mexico.

WHOLESALE AND WHOLESALE DEALER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person or, in case such person is unable to write, by such person's proper mark. (2003 Code)

1-3-3: CATCHLINES:

The catchlines of the several sections of the village code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division or section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (2003 Code)

CHAPTER 4

GENERAL PENALTY

SECTION:

1-4-1: Maximum Penalty

1-4-2: Court Costs; Collection; Purpose

1-4-3: Suspended Sentence; Probation; Community Service

1-4-4: Application Of Provisions

1-4-5: Liability Of Officers

1-4-1: MAXIMUM PENALTY:

Unless maximum penalty or a specific penalty is established by ordinance for a particular offense, the maximum penalty for violation of any municipal ordinance shall be as follows:

A. Except for those violations of ordinances described in subsections B and C of this section, a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days or both;

B. For violations of an ordinance prohibiting driving a motor vehicle while under the influence of intoxicating liquor or drugs, a fine of not more than nine hundred ninety nine dollars (\$999.00) or imprisonment for not more than one hundred seventy nine (179) days or both; and

C. For violations of an industrial user wastewater pretreatment ordinance as required by the United States environmental protection agency, a fine of not more than nine hundred ninety nine dollars (\$999.00) a day for each violation. (Ord. 2002-10, 10-16-2002)

1-4-2: COURT COSTS; COLLECTION; PURPOSE:

A. Fees Imposed: Effective July 1, 2003, every municipality shall enact an ordinance requiring assessment of corrections fees, judicial education fees and court automation fees to be collected as court costs and used as provided in this section. The fees are to be collected upon conviction from persons convicted of violating any ordinance relating to the operation of a motor vehicle or any ordinance that may be enforced by the imposition of a term of imprisonment.

A municipal judge shall collect the following costs:

1. A corrections fee of twenty dollars (\$20.00) ¹
2. A judicial education fee of three dollars (\$3.00); and
3. A court automation fee of six dollars (\$6.00). (Ord. 2009-03, 8-4-2009)

B. Definition Of Convicted: As used in this chapter, "convicted" means the defendant has been found guilty of a criminal charge by a municipal judge, either after trial, a plea of guilty or a plea of nolo contendere.

C. Disposition And Use Of Fees Collected:

1. All money collected pursuant to subsection A1 of this section shall be deposited in a special fund in the municipal treasury and shall be used for:
 - a. Municipal jailer or juvenile detention officer training;
 - b. The construction planning, construction, operation and maintenance of a municipal jail or juvenile detention facility;
 - c. Paying the cost of housing municipal prisoners in a county jail or detention facility or housing juveniles in a detention facility;
 - d. Complying with match or contribution requirements for the receipt of federal funds relating to jails or juvenile detention facilities;
 - e. Providing inpatient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing;
 - f. Defraying the cost of transporting prisoners to jails or juvenile detention facilities; or
 - g. Providing electronic monitoring system.

A municipality may credit the interest collected from fees deposited in the special fund pursuant to this subsection C1 to the municipality's general fund.

2. All money collected pursuant to subsection A2 of this section shall be remitted monthly to the state treasurer for credit to the judicial education fund and shall be used for the education and training, including production of benchbooks and other written materials, of municipal judges and other municipal court employees.

3. All money collected pursuant to subsection A3 of this section shall be remitted monthly to the state treasurer for credit to the municipal court automation fund and shall be used for the purchase and maintenance of court automation systems in the municipal courts. The court automation systems shall have the capability of providing, on a timely basis, electronic records in a format specified by the judicial information systems council. (Ord. 2003-09, 6-19-2003)

Notes

1. See also subsection 6-1-3B4 of this code.1;

1-4-3: SUSPENDED SENTENCE; PROBATION; COMMUNITY SERVICE:

A. Upon a plea of guilty or a judgment of conviction for violation of any provision of this code or any village ordinance, the municipal court may suspend in whole or in part the execution of sentence or place the defendant on probation for a period not exceeding one year on terms and conditions the court deems best, or both.

B. Suspension of execution of the sentence or probation, or both, shall be granted only when the municipal judge is satisfied it will serve the ends of justice and of the public.

C. The defendant's liability for any fine or other punishment imposed shall be fully discharged upon successful completion of the terms of probation.

D. The municipal court may, as a condition of probation, require the defendant to serve a period of time in volunteer labor to be known as community service. The type of labor and period of service shall be at the sole discretion of the court; provided, that any person receiving community service shall be immune from any civil liability other than gross negligence arising out of the community service, and any person who performs community service pursuant to court order or any criminal diversion program shall not be entitled to any wages, shall not be considered an employee for any purpose and shall not be entitled to workers' compensation, unemployment benefits or any other benefits otherwise provided by law. As used in this section, "community service" means any labor that benefits the public at large or any public, charitable or educational entity or institution. (Ord. 1988-07, 7-7-1988)

1-4-4: APPLICATION OF PROVISIONS:

A. Application Of Penalty: The penalty provided in this chapter shall be applicable to every section of this code the same as though it were a part of each and every separate section.

B. Acts Punishable Under Different Sections: In all cases where the same offense is made punishable or is created by different clauses or sections of this code, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

C. Breach Of Provisions: Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this code and there shall be no fine or penalty specifically declared for such breach, the provisions of this chapter shall apply. (2003 Code)

1-4-5: LIABILITY OF OFFICERS:

No provision of this code designating the duties of any officer or employee shall be so construed as to make such officer or

employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the village council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty. (2003 Code)

CHAPTER 5

OFFICIAL AND CORPORATE PROVISIONS

SECTION:

1-5-1: Village Seal

1-5-1: VILLAGE SEAL:

The design which is attached to ordinance 1986-02 is hereby adopted as the official seal of the village and is so entered into the official records of the village. (Ord. 1986-02, 7-15-1986)

CHAPTER 6

MAYOR AND VILLAGE COUNCIL

SECTION:

1-6-1: Elective Officials; Term Of Office

1-6-2: Mayor

1-6-3: Village Council

1-6-4: Compensation

1-6-5: Ordinances And Resolutions

1-6-1: ELECTIVE OFFICIALS; TERM OF OFFICE:

The mayor and members of the village council shall be elected officers of the village whose terms of office shall be four (4) years. The terms of office for members of the village council shall be staggered so that the terms of office for one-half (1/2) of the members will expire every two (2) years. (Ord. 2013-01, 2-12-2013)

1-6-2: MAYOR:

A. Presiding Officer; Voting: The mayor is the presiding officer of the village council. He shall vote only when there is a tie vote.

B. Powers And Duties:

1. Chief Executive Officer: The mayor is the chief executive officer and shall have the following powers:

- a. Cause the ordinances and regulations of the village to be obeyed;
- b. Exercise, within the village, powers conferred upon sheriffs of counties to suppress disorders and keep the peace;

and

c. Perform other duties, compatible with his office, which the village council may require.

2. Appointment Of Officers And Employees: At the organizational meeting of the village council, the mayor shall submit, for confirmation by the village council, the names of persons who shall fill the appointive offices of the village and the names of persons who shall be employed by the village. If the village council fails to confirm any person as an appointive official or employee of the village, the mayor, at the next regular meeting of the village council, shall submit the name of another person to fill the appointed office or to be employed by the village. Any person holding an appointed office at the time of the municipal election shall continue in that office until his successor has been appointed and is qualified.

3. Additional Powers: The mayor shall sign all commissions, licenses and permits granted by the village council, and other acts that the law or ordinances may require, or the commissions, licenses and permits may be authenticated as authorized under the uniform facsimile signature of public officials act 1

C. Vacancy In Office: In case of the death, disability, resignation or change of residence, from the village, of the mayor, the village council shall appoint, by majority vote, a qualified elector to fill the vacancy for the unexpired term of office. (Ord. 2013-01, 2-12-2013)

Notes

1-6-3: VILLAGE COUNCIL:

A. Powers And Duties: The village council shall:

1. Elect one of its members to act as mayor pro tem in the absence of the mayor;
2. Possess all powers granted by law, and other municipal powers not conferred by law or ordinance on another officer of the village;
3. Manage and control the finances and all property, real and personal, belonging to the village;
4. Determine the time and place of holding its meetings, which shall be open to the public;
5. Determine the rules of its own proceedings;
6. Keep minutes of its proceedings, which shall be open to examination by any citizen;
7. Adopt rules and regulations necessary to effect the powers granted municipalities;
8. Prescribe the compensation and fees to be paid municipal officers and employees; and
9. Prescribe the powers and duties of those officers whose terms of office or powers and duties are not defined by law, and impose additional powers and duties upon those officers whose powers and duties are prescribed by law.

B. Vacancy In Office: Any vacancy on the village council shall be filled by appointment of a qualified elector by the mayor, with the advice and consent of the village council. Any qualified elector appointed to fill a vacancy on the village council shall serve until the next regular municipal election, or any special election called in accordance with New Mexico Statutes Annotated section 3-12-1, subsection B, at which time a qualified elector shall be elected to fill the remaining unexpired term, if any. (Ord. 2013-01, 2-12-2013)

1-6-4: COMPENSATION:

A. Mayor: The mayor shall receive a salary equal to one hundred percent (100%) of the salary of the county commissioners of Colfax County per month, payable upon the first day of each calendar month. In addition, when the mayor must travel outside the village on official business, he or she shall be reimbursed for travel and per diem in accordance with state statutory provisions.

B. Councilors: Each councilor shall receive a salary equal to sixty percent (60%) of the salary of the county commissioners of Colfax County per month, payable upon the first day of each calendar month. In addition, when a councilor must travel outside the village on official business, he or she shall be reimbursed for travel and per diem in accordance with state statutory provisions.

C. Changes In Compensation:

1. Mayor: In the event that the salary of the county commissioners of Colfax County changes, then the salary of the mayor shall also change automatically, as soon as legally permitted, in accordance with state statutes; and
2. Councilors: In the event that the salary of the county commissioners of Colfax County changes, then the salary of each incumbent councilor shall also change automatically as soon as legally permitted in accordance with state statutes. Salaries for councilors may not always be identical due to delayed implementation of salary changes arising from staggered terms. (Ord. 2013-01, 2-12-2013)

1-6-5: ORDINANCES AND RESOLUTIONS:

A. Style Of Ordinances: The enacting clause of any village ordinance shall be: "Be it ordained by the village council of the village of Angel Fire".

B. Notice:

1. Notice by publication of the title and subject matter of any ordinance proposed for adoption by the village council must take place at least two (2) weeks prior to consideration of final action upon the ordinance in open session of the village council; except, that this subsection shall not apply to ordinances dealing with an emergency declared by the mayor to be an immediate danger to the public health, safety and welfare of the village, or to ordinances the subject matter of which is amending the village zoning map, provided the amendment to such zoning map has been considered by the planning and zoning commission and recommended to the village council. It is sufficient defense to any suit or prosecution to show that no notice by publication was made.

2. Notice of the proposed ordinance shall be published one time as a legal advertisement in a newspaper of general circulation in the village.

3. Copies of a proposed ordinance shall be available to interested persons during normal and regular business hours of the village clerk upon request and payment of a reasonable charge beginning with the date of publication and continuing to the date of consideration by the village council.

C. Vote; Adoption: If a majority of all the members of the village council vote in favor of adopting the ordinance or resolution, it is adopted. The village clerk shall record in the minutes book the vote of each member of the village council on each ordinance or resolution. Within three (3) days after the adoption of an ordinance or resolution, the mayor shall validate

the ordinance or resolution by endorsing "approved" upon the ordinance or resolution and signing the same.

D. Proof; Authentication; Publication: An ordinance shall be recorded in a book kept for that purpose, shall be authenticated by the signature of the mayor and the village clerk and shall bear the seal of the village. The ordinance shall be published one time either in its entirety or by title and a general summary of the subject matter contained in the ordinance, whichever the village council elects to do. (Ord. 2013-01, 2-12-2013)

CHAPTER 7

VILLAGE OFFICERS AND EMPLOYEES

SECTION:

1-7-1: Oath Of Office

1-7-2: Conflict Of Interest

1-7-1: OATH OF OFFICE:

Any officer, elected or appointed to any village office, shall take an oath or affirmation to support the constitution of the United States, the constitution and laws of the state and to faithfully perform the duties of his office. (2003 Code)

1-7-2: CONFLICT OF INTEREST:

A. Financial Interests Of Village Officers And Employees:

1. No elected village officer, during the term for which elected, and no village employee, during the period of such employment, shall acquire a financial interest in any new or existing business venture or business property of any kind when such officer or employee believes or has reason to believe that the new financial interest will be directly affected by his official act.

2. No elected village officer and no village employee shall use confidential information acquired by virtue of his village office or village employment for his or another's private gain.

3. The district attorney shall investigate and prosecute, when appropriate, any complaint brought to his attention involving a violation of this subsection. Violation of the provisions of this subsection by any village officer or employee is grounds for removal or suspension of the officer and dismissal, demotion or suspension of the employee.

B. Disclosure Of Interest By Officers:

1. Any member of the village council having a financial interest or possible interest in the outcome of any policy, decision or determination before the village council shall, within a reasonable time after such interest becomes apparent and in no case later than at the time of the taking of a vote on the issue in which he has a financial interest or possible interest, disclose to each of the other members of the village council the nature of his financial interest or possible interest in the issue and his disclosure shall be recorded in the minute book of the village council.

2. Disclosure of financial interest or possible interest on any issue coming before the village council shall not disqualify a member of the village council from voting on the issue, unless:

a. A majority of the remaining members of the governing body determine that the member who discloses his financial interest or possible interest should not in propriety vote on the issue; or

b. The member having a financial interest or possible interest in the issue voluntarily disqualifies himself. (2003 Code)

ARTICLE A. VILLAGE MANAGER

SECTION:

1-7A-1: Office Established

1-7A-2: Appointment And Removal; Salary

1-7A-3: Duties

1-7A-1: OFFICE ESTABLISHED:

A. Authorization Action: Pursuant to New Mexico Statutes Annotated 1978, section 3-13-3, the governing body of the village of Angel Fire, a municipality having a population of more than one thousand (1,000) persons, hereby provides that the village establishes the position of village manager as that term is used in the above cited statute with all authorities, duties and responsibilities as provided for a manager as stated in New Mexico Statutes Annotated 1978, sections 3-13-3, 3-14-13 through 3-14-15 and this title. (Ord. 2013-01, 2-12-2013)

1-7A-2: APPOINTMENT AND REMOVAL; SALARY:

The manager shall be the chief administrative officer. He shall be appointed by the mayor with the advice and consent of the governing body for an indefinite term and until a vacancy is created by death, resignation or removal by the governing body.

The manager shall be appointed solely on the basis of administrative qualifications and his selection shall not be limited by reason of former residence. The manager shall receive a salary to be fixed annually by the governing body. (Ord. 2013-01, 2-12-2013)

1-7A-3: DUTIES:

The village manager shall:

- A. Serve as chief administrative officer of the village and, within broad policy guidelines, assist the governing body in planning, administering and implementing the day to day activities of the municipal government.
- B. The manager shall have a seat, but no vote, at every meeting of the governing body. Except when clearly undesirable or unnecessary, the governing body shall request the opinion of the manager on any proposed measure.
- C. The administration of the affairs of the village shall be divided into as many departments as may be deemed desirable by the governing body. Each department shall be under the charge of a person employed by the manager.
- D. Employ and discharge all persons engaged in the administrative service of the village.
- E. Direct and supervise the work of all municipal employees.
- F. Enforce all ordinances, rules, regulations and policies enacted by the governing body.
- G. Implement all municipal policies.
- H. Make recommendations to the governing body on all matters concerning the welfare of the village.
- I. Represent the village in regard to local, regional, state and federal activities of concern to the village.
- J. Develop and submit the annual budget, prepare supporting justification for presentation to the governing body and advise the council on the financial status and needs of the village.
- K. Ensure that adequate safeguards are implemented to protect the village funds including overseeing the investment of surplus funds to derive the maximum return.
- L. Serve as the village procurement officer, assume the responsibility for compliance with the procurement code.
- M. Attend all meetings of the governing body unless excused by the mayor and serve as an ex officio member of such boards, commissions, committees or authorities as directed by the governing body.
- N. Administer personnel matters as personnel officer, make policy and pay scale recommendations for council approval and coordinate employment benefits.
- O. Coordinate activities with consulting engineers and the village attorney.
- P. Serve as village public information officer.
- Q. Administer all contracts for outside services.
- R. Perform other duties as prescribed by the village council. (Ord. 2013-01, 2-12-2013)

Notes

- 1. NMSA § 13-1-28 et seq.1 and make all purchases.



ARTICLE B. VILLAGE CLERK

SECTION:

1-7B-1: Office Established; Salary

1-7B-2: Appointment; Removal From Office

1-7B-3: Certification

1-7B-4: Duties

1-7B-5: Assistants

1-7B-1: OFFICE ESTABLISHED; SALARY:

The village shall employ a village clerk and establish the salary thereof. (Ord. 2000-08, 3-23-2000)

1-7B-2: APPOINTMENT; REMOVAL FROM OFFICE:

The mayor, with the advice and consent of the governing body, shall appoint the clerk. The clerk shall serve at the pleasure of the mayor and the village council and may, subject to the terms of any written employment contract, be removed by the governing body at any time. (Ord. 2000-08, 3-23-2000)

1-7B-3: CERTIFICATION:

At the time of appointment, if the village clerk is not a New Mexico certified municipal clerk, he/she shall begin a process of certification immediately upon employment. Assistants need not begin such certification process. (Ord. 2000-08, 3-23-2000)

1-7B-4: DUTIES:

The village clerk shall:

- A. Report to and follow all direction with regard to the work assigned by supervisory personnel as indicated by the approved organizational chart of the village; (Ord. 2000-08, 3-23-2000; amd. 2003 Code)
- B. Keep in custody all minutes, ordinances, and resolutions approved by the governing body;
- C. Keep in custody all other documents generated by the governing body and/or village administrator;
- D. Attend all meetings of the governing body and attend other meetings as directed by the village administrator;
- E. Record all proceedings, ordinances and resolutions of the governing body;
- F. Collect a reasonable fee for the cost of furnishing copies of municipal records as directed by the village administrator;
- G. Assist the village administrator in implementing all municipal policies;
- H. Assist the village administrator in the development and submission of the annual departmental budget;
- I. Receive money and other things of value belonging to the village and promptly deposit such money to the appropriate account of the village or provide for storage, handling and safe keeping of other things of value;
- J. Expend money of the village only as directed by the village administrator;
- K. Keep departmental accounts and records in the manner prescribed by the governing body and/or village administrator;
- L. Assist the procurement officer, as requested for the village purchases;
- M. Prepare all ordinances, resolutions, minutes, and any other documents requested by the governing body and/or village administrator. This work is primarily concerned with clerical and accounting management of the departmental activities and records;
- N. Keep open to inspection by any citizen during the regular business hours of the village the records of the clerk; and
- O. Perform other work as directed by the village administrator. (Ord. 2000-08, 3-23-2000)

1-7B-5: ASSISTANTS:

The village administrator, with the consent of the governing body, may designate other municipal employees to be deputy village clerks who shall have the right and duty to perform all of the duties of the village clerk including, but not limited to, the duties set out in the municipal election code ¹

Notes

¹ 1. NMSA § 3-8-1 et seq.1. (Ord. 2000-08, 3-23-2000)



ARTICLE C. PUBLIC EMPLOYEE BARGAINING

SECTION:

1-7C-1: Ordinance Adopted; Copies

1-7C-2: Amendments To Public Employee Bargaining

1-7C-1: ORDINANCE ADOPTED; COPIES:

A. Adopted: Except as otherwise provided in this chapter, article 7E New Mexico Statutes Annotated 1978 "public employee bargaining act" and all subsequent amendments adopted by the state of New Mexico after this date are adopted by reference pursuant to New Mexico Statutes Annotated section 3-17-6.

B. Copies: A copy of the New Mexico public employee bargaining act is available for inspection during normal and regular business hours at the village hall. (Ord. 2013-01, 2-12-2013)

1-7C-2: AMENDMENTS TO PUBLIC EMPLOYEE BARGAINING:

A. New Mexico Statutes Annotated section 10-7E-3. Conflicts. Is amended to include: In the event of conflict with other ordinances, the provisions of this article shall supersede other previously enacted ordinances; provided that this article shall not supersede the village personnel ordinance ¹

B. New Mexico Statutes Annotated section 10-7E-12. Hearing Procedures. Is amended to include: All meetings shall be held in the village of Angel Fire. (Ord. 2013-01, 2-12-2013)

1. See title 2 of this code. Village sanctioned rules and regulations, administrative directives and policies, departmental rules and regulations and workplace practices shall control unless there is conflict with a collective bargaining agreement. Where conflict exists, the collective bargaining agreement shall control.

CHAPTER 8

MUNICIPAL COURT

SECTION:

1-8-1: Court Established

1-8-2: Jurisdiction

1-8-3: Municipal Judge

1-8-4: Rules Of Procedure

1-8-5: Court Hours

1-8-6: Personnel And Finances

1-8-1: COURT ESTABLISHED:

There is hereby created a municipal court in the village to be presided over by a municipal judge as hereafter provided. (Ord. 1988-03, 6-2-1988)

1-8-2: JURISDICTION:

The municipal court shall have jurisdiction over all offenses and complaints arising under the ordinances and laws of the village and shall have power to issue subpoenas and warrants and the power to punish for contempt. (Ord. 1988-03, 6-2-1988)

1-8-3: MUNICIPAL JUDGE:

A. Qualifications; Oath Of Office: The municipal judge shall be a bona fide resident of the village and shall be a qualified elector as provided by the laws of the state and shall, before qualifying, take and subscribe an oath or affirmation, in writing, to support the constitutions of the United States of America and the state of New Mexico and to impartially discharge and perform all the duties of such office to the best of his or her ability, which oath of office shall be filed in the office of the village clerk.

B. Election; Term Of Office: A municipal judge shall be elected for a term of four (4) years and shall be elected at the regular village elections. Any qualified person, as provided herein, may have his or her name placed upon an official ballot by filing with the village clerk a notarized declaration of his or her candidacy as provided in the election laws of the state and the election laws of the village. The official ballot shall be provided by the village, and the candidate receiving the highest number of votes cast by qualified electors at any election for municipal judge shall be declared elected to office. The municipal judge holding office at the effective date hereof shall remain in office as municipal judge until the expiration of his or her present term.

C. Alternate Municipal Judge

1. The mayor of the village, subject to the approval of the village council, may appoint an alternate municipal judge. The alternate municipal judge shall serve as acting municipal judge during the vacation, temporary absence, unavailability or incapacity of the municipal judge. The alternate municipal judge shall serve as temporary judge to exercise all powers of the municipal judge until the return of the municipal judge. Compensation of the alternate municipal judge shall be set by the village council.

D. Monthly Reports; Monies To Clerk: The municipal judge shall make monthly written reports to the village clerk, on forms to be provided by the village, of all monies collected by the municipal court, and such reports shall be filed on or before the tenth day of each month following the month in which said funds were collected, and the funds shall be deposited into the village general fund as they are collected by the municipal court. Further, such reports shall include an itemized statement showing the different amounts so collected, the name of the person, insofar as possible, from whom such money was recovered and the date such payments were made to the court. The report shall further set forth the manner of, terms and disposition of all cases. Pursuant to New Mexico Statutes Annotated section 35-14-9: "Any municipal judge violating any provision relating to making reports or remitting money collected is guilty of a misdemeanor and shall be fined not more than two hundred dollars (\$200) or imprisoned not more than ninety days, or both". (Ord. 1988-03, 6-2-1988)

E. Salary: The salary for the municipal judge will remain the same as that of councilors, whether increased or decreased. (Ord. 1988-03, 6-2-1988; amd. 2003 Code; Ord. 9-27-2922)

1-8-4: RULES OF PROCEDURE:

The municipal judge shall follow the rules of procedure as established in the court rules, procedure and evidence, judicial vol. I, New Mexico Statutes Annotated. (Ord. 1988-03, 6-2-1988)

1-8-5: COURT HOURS:

The municipal judge shall establish the court hours, as needed, with a minimum of one regularly scheduled session per week. Additional sessions shall be held at the discretion of the judge with the approval of the village council. Regularly scheduled court sessions may be cancelled with cause only with forty eight (48) hours' notice. All affected parties must be notified by the judge or his or her designee. Emergency cancellation with less than forty eight (48) hours' notice must be approved by the mayor. (Ord. 1988-03, 6-2-1988)

1-8-6: PERSONNEL AND FINANCES:

All personnel of the municipal court shall be employed by the village, and any appropriation for the court shall be controlled and budgeted for in the same manner as any other village department. (Ord. 1988-03, 6-2-1988)

CHAPTER 9

MISCELLANEOUS FEES

SECTION:

1-9-1: Special Council Meetings; Administrative Fee

1-9-1: SPECIAL COUNCIL MEETINGS; ADMINISTRATIVE FEE:

The village has regularly scheduled meetings of the governing body, and said governing body causes advance notice of changed meeting dates and/or times to be published. There shall be an additional twenty five dollar (\$25.00) charge per request for the administrative costs for adding an item for council consideration to any special council meeting that has been scheduled. For a permit that requires preparation and convening of a special council meeting that has not been previously scheduled, the fee will be two hundred fifty dollars (\$250.00). (Ord. 2013-01, 2-12-2013)

TITLE 2

PERSONNEL POLICY

CHAPTER 1

GENERAL PROVISIONS

SECTION:

2-1-1: Purpose

2-1-2: Application Of Provisions

2-1-3: Nondiscrimination In Employment

2-1-4: Definitions And References

2-1-5: Implementation And Enforcement

2-1-1: PURPOSE:

This personnel policy ("policy") is enacted by the Village of Angel Fire ("Village" or "Angel Fire") to apply to those employees not covered by collective bargaining in order to further the following goals:

A. To provide a uniform system of personnel administration for all Village departments and promote communication among department directors, supervisors and employees.

B. To ensure that personnel actions, such as recruitment, selection, placement, promotion, retention, compensation, transfer, and separation of Village employees are based on an employee's qualifications and/or performance and are in compliance with Federal and State laws.

C. To assist management in personnel actions and procedures and to assure effective and consistent use of human resources by the Village.

D. In the event of the amendment of any ordinance, rule, law, or policy incorporated in this title or upon which these provisions rely, this title shall be deemed amended in conformance with the amendment. The Village specifically reserves the right to repeal, modify, or amend this title at any time. None of these provisions shall be deemed to create a vested contractual right with any employee or to limit the power of the Village to repeal or modify this title or any provision thereof. This title shall not be interpreted as a promise of specific treatment. (Ord. 2019-06, 5-14-2019)

2-1-2: APPLICATION OF PROVISIONS:

A. All employees are subject to this title, provided that the Village Manager, Finance Director, Village Clerk, Fire Chief and Police Chief are not subject to this title, except as required by State Statute.

B. The Village of Angel Fire has a zero tolerance for employees who violate these policies. (Ord. 2019-06, 5-14-2019)

2-1-3: NONDISCRIMINATION IN EMPLOYMENT:

A. The Village shall not discriminate against any employee or applicant for employment. Applicants and employees shall be treated equally, without regard to race, color, religion, age, sex, disability, national origin, ancestry, physical or mental handicap or serious medical condition or sexual orientation or gender identity.

B. The Village's commitment to nondiscriminatory employment includes employment, placement, promotion, demotion, transfer, recruitment and recruitment advertising, referrals and referral sources, layoff, recall, termination, training, education and tuition assistance, social and recreational programs, wages and other forms of compensation and benefits.

C. The Village is an equal opportunity employer. (Ord. 2019-06, 5-14-2019)

2-1-4: DEFINITIONS AND REFERENCES:

ADVERSE ACTION: Suspension without pay, demotion or dismissal.

CONDITIONAL POSITION: A temporary or seasonal position with a duration less than nine (9) months per fiscal year or a part time position requiring less than twenty seven (27) hours per week on a regular basis. Conditional positions do not qualify employees for benefits.

DEPARTMENT DIRECTOR: An employee who has the responsibility of directing one or more Village departments. Department directors are exempt status employees in accordance with 29 USC sections 201 through 219 (Fair Labor Standards Act).

EMPLOYEES: Employees are classified as follows:

A. Regular Employees: Full or part time employees who have completed the probationary period, work a minimum of twenty seven (27) hours per week on a regular basis, and are eligible for benefits.

B. Probationary Employees: Employees placed in a regular position who have not completed the initial probationary period in accordance with this title.

C. Conditional Employees: (Note: Conditional employees are ineligible for benefits.) Conditional employees may be terminated at any point and not be subject to the progressive disciplinary process.

1. Employees hired to fill a temporary or seasonal position for a period of no more than nine (9) months are not eligible for benefits.

2. Employees hired to fill part time positions, working less than twenty seven (27) hours per week on a regular basis are not eligible for benefits.

EVALUATIONS (Sometimes Referred To As PERFORMANCE EVALUATIONS): Evaluations include annual, probationary, directed, requested and disciplinary evaluations. Evaluations provide an opportunity for an employee to discuss with his/her supervisor the achievements, successes and goals and/or identify areas for improvement for the employee in the future. New employees on probation will be given an evaluation mid probation (3 months). An evaluation will occur within ninety (90) days of an employee being reclassified to a different position.

EXEMPT POSITION: A position that is not subject to provisions of the Federal Fair Labor Standards Act.

FAIR LABOR STANDARDS ACT OR FLSA: Federal law that establishes certain standards for nonexempt positions, published as 29 USC sections 201 through 219 as it currently exists or is hereafter amended.

JOB DESCRIPTION: Written guidelines and description of a position which includes the title, a general statement of duties and responsibilities, examples of typical duties performed, minimum qualifications for the position and a general definition of working conditions.

NONEXEMPT POSITION: A position that is subject to the Fair Labor Standards Act.

PAID TIME OFF (PTO): An accumulated number of individually banked hours that an employee may use in accordance with this title, as they wish, for sick days, vacation and/or other personal reasons.

REGULAR POSITION: A recurring budgeted full time or part time position requiring a minimum of twenty seven (27) hours of work a week on a regular basis. Regular positions do qualify employees for benefits.

TERMINATION: Involuntary dismissal from employment.

VILLAGE MANAGER: The Chief Administrative Officer of the Village. (Ord. 2019-06, 5-14-2019)

2-1-5: IMPLEMENTATION AND ENFORCEMENT:

A. Chain Of Command; Organizational Chart: The Village Manager (hereinafter, sometimes "the Manager"), the Chief Administrative Officer of the Village, is subject to direction by the Mayor, who is the Chief Executive Officer of the Village. Department directors, with the exception of the Finance Director, Village Clerk, Fire Chief and Police Chief, work for the Village Manager. The Manager will direct and supervise the work of all Municipal employees in close coordination with all

department directors to include the Finance Director, Village Clerk, Fire Chief and Police Chief. The Manager will submit to Council on an annual basis a Village organizational chart depicting the departments deemed desirable to effectively and efficiently conduct Village business for the subsequent fiscal year. Upon Council approval of the Village organizational chart, each department director shall produce and submit a copy of the department's individual organizational chart depicting the chain of command in that department to the Manager for approval. Each department director shall maintain, post and distribute to each employee within the department a current copy of the department's individual organizational chart showing the chain of command in that department using established Village administrative guidelines. The department director is responsible for supplying the Village Manager and Human Resources Department with a current organizational chart of the department as changes are made in the department. (Ord. 2019-06, 5-14-2019)

CHAPTER 2

EMPLOYMENT

SECTION:

2-2-1: Employee Responsibility For Personnel Policy

2-2-2: Recruitment

2-2-3: Employment Applications

2-2-4: Reference Checks

2-2-5: Medical Examinations

2-2-6: Employment Of A Relative Or Member Of The Common Household

2-2-7: Employment Date

2-2-8: Probationary Status Period

2-2-9: Job Descriptions

2-2-10: Performance Evaluations

2-2-11: Employee Permanent Record

2-2-12: Political Participation

2-2-13: Voting

2-2-14: Layoff/Reduction Of Work Force

2-2-15: Work Period Defined

2-2-16: Attendance

2-2-17: Public Announcements

2-2-18: Bulletin Boards

2-2-19: Telephone Courtesy

2-2-20: Dress And Appearance

2-2-21: Use Of Village Vehicles

2-2-22: Employee Complaint Process

2-2-23: Other Employment

2-2-24: Gifts And Gratuities

2-2-25: Promotion Of Private Business

2-2-26: Smoke Free, Tobacco Free Workplace

2-2-27: Employees Serving On Boards And Committees

2-2-1: EMPLOYEE RESPONSIBILITY FOR PERSONNEL POLICY:

A. Each employee will receive a copy of this title at the time of employment and is responsible for becoming familiar with it, as this title governs employment with the Village. From time to time the Village may hold employee meetings to discuss Village policies; attendance will be mandatory. Copies are available in the Human Resources Department and online at the Village's website. (Ord. 2019-06, 5-14-2019)

2-2-2: RECRUITMENT:

A. It is the goal of the Village to hire the most qualified person for an open position. All vacant positions will be posted and may be advertised externally. A qualified employee who submits a timely application for the posted, vacant position may

be interviewed along with qualified external applicants. (Ord. 2019-06, 5-14-2019)

2-2-3: EMPLOYMENT APPLICATIONS:

A. External and internal applicants shall submit applications on the forms available from the Human Resources Department or online at www.angelfirenj.gov. If requested, copies of certificates, diplomas, licenses, or other required credentials shall be submitted with the application form. References will be verified by the Human Resources Department or the department director.

B. Applications will be kept on file in the Human Resources Department for a period of six (6) months from the day the position is filled. These applications may be used as a future recruitment source. (Ord. 2019-06, 5-14-2019)

2-2-4: REFERENCE CHECKS:

A. The Human Resources Department is responsible for responding to inquiries concerning current and former employees.

B. Any department which receives a request for an employment reference or recommendation concerning a former or current employee shall forward the request to the Human Resources Department for response. Only dates of employment, pay rates and position or positions held will be provided. (Ord. 2019-06, 5-14-2019)

2-2-5: MEDICAL EXAMINATIONS:

A. Pre-Employment Exams:

1. Pre-employment medical examinations, which may include a urinalysis or other tests for detection of controlled substances, may be required.

2. Position requirements may necessitate that pre-employment medical examinations include an EKG (electrocardiogram), back and chest x-rays, hepatitis and/or other diagnostic, psychological, medical tests or drug testing.

B. Examinations:

1. Periodic medical and/or psychological examination of an employee may be requested by the employee's department director and/or Village Manager to determine the employee's physical and psychological fitness to adequately and safely perform assigned duties and responsibilities. Refusal to submit to such an examination is grounds for disciplinary action, including termination.

2. The Village shall specify the medical provider who will conduct the examination and pay all expenses incurred for the examination.

3. Examination results are confidential and shall be maintained in a separate file to which access will be limited as required by law. (Ord. 2019-06, 5-14-2019)

2-2-6: EMPLOYMENT OF A RELATIVE OR MEMBER OF THE COMMON HOUSEHOLD:

A. Village policy is to avoid the practice or appearance of nepotism in employment. No person shall be hired, promoted, or transferred to a position which is subject to the supervision of an immediate family member or member of the common household. Requests to consider a waiver of this section may be considered; and approval of such a waiver by the Village Manager may occur if the waiver is determined to be in the best interest of the Village, and the selection for the position is open to public scrutiny.

B. For purposes of this section, "immediate family member" means a spouse, child, parent, sibling, grandparent, grandchild, aunt, uncle, and cousin, regardless of whether the relationship is full, half, step or in-law. (Ord. 2019-06, 5-14-2019)

2-2-7: EMPLOYMENT DATE:

A. The employment date of a regular employee is the date the employee first reports to work. If a conditional employee becomes a regular employee, his employment date is the date he is put on probationary status for a regular position. (Ord. 2019-06, 5-14-2019)

2-2-8: PROBATIONARY STATUS PERIOD:

A. Any employee hired to a regular position shall be on probation for a period of six (6) months. While in the probationary period the employee may be terminated at any point and not be subject to the progressive disciplinary process. A probationary status employee shall accumulate PTO during the probationary period; however, PTO is only available for use after completion of thirty (30) days of continuous, satisfactory employment. Employee will be given an evaluation at three (3) months on job performance.

B. Police and Fire Department employees will be on probation for twelve (12) months if uncertified, or six (6) months if certified. (Ord. 2019-06, 5-14-2019)

2-2-9: JOB DESCRIPTIONS:

A. Job titles and job descriptions are established or amended by the Village Manager and department directors. The job descriptions for the Village Manager, Village Clerk, Finance Director, Police Chief, and Fire Chief are established, approved and/or amended by the Mayor, in accordance with State law, as applicable.

B. Written job descriptions will be maintained and are available for review in the Human Resources Department.

C. Each department director shall maintain a copy of current job descriptions for job titles assigned to that department

and is responsible for keeping descriptions current. Employees are encouraged to bring their assessment of job content and responsibilities to their Managers as well. (Ord. 2019-06, 5-14-2019)

2-2-10: PERFORMANCE EVALUATIONS:

A. The Village Manager with Human Resources shall establish a program for the department directors and supervisors to evaluate the quality of each regular employee's work performance and behavior on at least an annual basis.

B. Employee performance evaluations shall be used to:

1. Discuss the employee's achievements, successes and goals.
2. Document the supervisor's perception of the quality and quantity of an employee's work performance and behavior.
3. Advise the employee of strengths and weaknesses of his/her performance.
4. Provide the employee with the supervisor's recommendations and expectations for improvement.
5. Aid supervisors in improving the effectiveness and efficiency of their operations.
6. Aid in determining an employee's eligibility for a pay adjustment if funds are approved for such purpose in the budget. (Ord. 2019-06, 5-14-2019)

2-2-11: EMPLOYEE PERMANENT RECORD:

A. Official Custodian: The Human Resources staff/Department is the official custodian of all employee records. Employee files are the property of the Village.

B. Employee Access To Files; Information To Be Kept Current: Each Village employee may examine all of his/her records at any time during established business hours of Village Hall. Employees are expected to keep information in their file current as to their address, phone numbers, beneficiary or dependent information and additional training or education.

C. Employee Record Documents: Employee records will be maintained in three (3) distinct and separate files: an Employee File, a Performance Records File, and a Confidential Records File. Files that are electronically maintained (paperless) will comply with this Code through the use of virtual file separation and controlled access to all files and/or information.

D. Employee File: The Employee File will be maintained as a "releasable to public" file pursuant to the Inspection of Public Records Act (reviewable at the Clerk's Office). Documents contained in the Employee File will not contain protected personal identifier information. Documents contained in the Employee File may include but are not limited to:

1. Employment application and resume;
2. Offer letter;
3. Correspondence between applicant and Village;
4. Personal Action Form (PAF);
5. Personnel Policy Acknowledgment;
6. Drug Testing Consent Form;
7. Background Check Consent Form;
8. Jury Duty Summons;
9. Request for Transfers;
10. Request for Leaves of Absence (LOA) (FMLA requests are excluded);
11. Letters of resignation;
12. Training and certification documents.

E. Performance Records File: The employee's Performance Records File is a restricted file containing documents and information that is releasable only to the employee, the direct supervisor and supervisors, managers, superintendents, and/or directors in the employee's direct chain of command, and the Village Manager. Documents contained in the employee's Performance Records File may include but are not limited to:

1. Performance evaluations;
2. Performance self-evaluations;
3. Disciplinary documents and performance improvement plans.

F. Confidential Records File: The employee's Confidential Records File is a restricted file containing documents and information that is releasable only to the employee, Human Resources staff, and the Village Manager. Protected personal identifier information may be released to other departments when this information is required by law or when necessary to meet employee benefits obligations and/or requirements. Documents contained in the employee's Confidential Records File may include but are not limited to:

1. Insurance enrollment forms,
2. PERA enrollment forms,
3. Medical correspondence and/or information,
4. Court ordered garnishments,
5. Drug test results,
6. Background check information,
7. FMLA leave of absence documents/information,
8. Workman's compensation documents/information,
9. Any and all other records containing protected personal identifier information.

G. Requests For Information From Personnel Files: Requests for information from an employee's Employee File, to include requests for employment references, shall be forwarded to the Village Human Resources staff or the Village Clerk. (Ord. 2019-06, 5-14-2019)

2-2-12: POLITICAL PARTICIPATION:

A. A Village employee may not campaign, distribute literature, wear political buttons or solicit political contributions while on the job or represent or appear as representing the Village at political meetings or political activities. No Village employee shall prohibit the right of another employee to express a personal political choice or commitment. No Village employee shall be expected, required, or coerced to contribute to any political campaign.

B. An employee elected to a position may not retain employment with the Village if the elected position is incompatible with Village employment as determined by the Village Manager. (Ord. 2019-06, 5-14-2019)

2-2-13: VOTING:

A. During an election, an employee who is registered to vote and whose hours of work do not allow sufficient time for voting shall be allowed the necessary time off with pay for this purpose. When the polls are open two (2) hours before or two (2) hours after the regular scheduled work period, time off for voting is deemed unnecessary. (Ord. 2019-06, 5-14-2019)

2-2-14: LAYOFF/REDUCTION OF WORK FORCE:

A. The Village Manager is authorized to lay off employee(s) as necessary. Guidelines will be developed as required. (Ord. 2019-06, 5-14-2019)

2-2-15: WORK PERIOD DEFINED:

A. A regular full time position is a position held by a probationary or regular employee who is scheduled to work at least forty (40) hours per seven (7) day work period on a recurring basis. The established work period is Monday through Sunday. Please see appendix A on file in the Village for work period defined for Fire and EMS Department employees.

26 pay periods x 80 hours = 2,080 hours worked each year

2,080 x hourly rate = yearly salary or

Yearly salary/2,080 = hourly rate

(Ord. 2019-06, 5-14-2019)

2-2-16: ATTENDANCE:

A. Employees are expected to arrive at work at the scheduled time and be prepared to work. When conditions such as illness, personal circumstances or weather conditions prevent the employee from working, the employee shall notify his/her immediate supervisor no less than thirty (30) minutes before scheduled to arrive for work. Failure to notify the supervisor in a timely manner is grounds for disciplinary action. (Ord. 2019-06, 5-14-2019)

2-2-17: PUBLIC ANNOUNCEMENTS:

A. The Village Manager, or his/her designated representative, shall make all official reports and announcements to newspapers and other news media. All requests for comments must be referred to the Village Manager. All requests for public records or public information must be directed to the Village Clerk for response. (Ord. 2019-06, 5-14-2019)

2-2-18: BULLETIN BOARDS:

A. Employees are responsible for viewing official notices and items of interest, such as job vacancies posted on Village bulletin boards. Distasteful, potentially offensive, political, or commercial material shall not be posted on Village bulletin boards. With the approval of the Village Manager, information on public issues or public events (e.g., Village sponsored bond elections) may be posted. (Ord. 2019-06, 5-14-2019)

2-2-19: TELEPHONE COURTESY:

A. Common sense and everyday courtesy are required of employees conducting Village business by telephone. An employee should identify his name and department when answering the phone. If the call has been misdirected, a reasonable effort should be made to properly direct the call. The Village telephone system is installed for business purposes and personal calls shall be kept to an absolute minimum. Personal long distance calls are to be avoided, but if made, are the financial responsibility of the employee. (Ord. 2019-06, 5-14-2019)

2-2-20: DRESS AND APPEARANCE:

A. Professional Image: Appearance and dress of employees is important in creating a professional image supportive of public confidence.

B. Uniformed Personnel: Uniforms are expected to be neat and clean. Employees are responsible for wearing proper uniforms, related accessories, and equipment appropriate for the season and the work they do.

C. Uniforms Not To Be Worn Off Duty: Uniforms shall not be worn during off duty time (except when commuting to and from work) or in combination with non-uniform clothing.

D. Uniforms Are To Be Returned Upon Termination: Uniforms that are paid for and supplied by the Village must be returned to the Village upon termination.

E. Non-Uniformed Personnel: Employees, not wearing uniforms, shall wear clothing and footwear which is neat, clean, not frayed or torn and suitable for the type of job they are performing. Casual clothing, evening wear, play clothes, midriff baring tops are not appropriate office attire. Only Village logos may appear on apparel and headwear. With the exception of work appropriate earrings, body piercing jewelry may not be worn.

F. Personal Hygiene: Hair should be clean and beards, if worn, neatly trimmed; hair and beards must be an appropriate length for the work performed. If your job requires, personal hygiene and grooming must adhere to standards established for the department so as to not be offensive.

G. Enforcement: An employee will be sent home without pay if the department director and/or Village Manager determine the attire, appearance or personal grooming of the employee to be inappropriate. (Ord. 2019-06, 5-14-2019)

2-2-21: USE OF VILLAGE VEHICLES:

A. Policies on vehicle use can be found in the administrative policy and procedures binder located in each department and on the Village website.

B. Policies for Public Safety, Police and Fire Department vehicles can be found in their departmental policies. (Ord. 2019-06, 5-14-2019)

2-2-22: EMPLOYEE COMPLAINT PROCESS:

A. An employee has the right and is encouraged to discuss any complaint or aspect of his/her employment which is of concern with the immediate supervisor. Failure to resolve the concern or reach a resolution may entitle the employee to access the formal grievance procedures set out in chapter 9 of this title. (Ord. 2019-06, 5-14-2019)

2-2-23: OTHER EMPLOYMENT:

A. Employment with the Village is the primary employment for an employee in a regular full time position. Outside employment is subject to the approval of the department director. An employee must request approval in writing to the department director for any outside employment. The department director is responsible for determining if the outside employment is compatible with the employee's employment with the Village. A copy of the approval or denial for other employment shall be maintained by the Human Resources Department. Changes in outside employment or services must be reported to the employee's department director for approval or disapproval as they occur. (Ord. 2019-06, 5-14-2019)

2-2-24: GIFTS AND GRATUITIES:

A. A nonmonetary gift, including meals or entertainment, when offered gratuitously and carrying a total value of less than twenty five dollars (\$25.00) may be accepted so long as the gift was not offered to influence the employee's judgment, action, or vote. It is the employee's responsibility to avoid the appearance of a conflict of interest, and discretion should be used in accepting gifts valued under twenty five dollars (\$25.00). If there is any doubt about the intent of the person giving the gift or that its value is greater than twenty five dollars (\$25.00), the employee must decline the gift. (Ord. 2019-06, 5-14-2019)

2-2-25: PROMOTION OF PRIVATE BUSINESS:

A. Employees are prohibited from:

1. Using Village equipment to promote another business or personal interest.
2. Promoting or conducting personal or private business during the workday. (Ord. 2019-06, 5-14-2019)

2-2-26: SMOKE FREE, TOBACCO FREE WORKPLACE:

A. The Village promotes a smoke free, tobacco free workplace. The use of tobacco products is prohibited in all government vehicles and buildings, defined as any building or portion of any building owned or leased by the Village and used for Village purposes.

B. There will be no designated smoking areas in any Village building or vehicle.

C. In accordance with New Mexico Statutes Annotated, section 24-16-13 and pursuant to the Dee Johnson Clean Indoor Air Act, the Village has established a smoke free area of fifteen feet (15') from any entrances, operational windows, and ventilation system intakes of all Village buildings.

D. Violations of this section will be subject to disciplinary action. (Ord. 2019-06, 5-14-2019)

2-2-27: EMPLOYEES SERVING ON BOARDS AND COMMITTEES:

A. Unless required by State Statute or other applicable law, no employee shall serve as a member of any advisory, quasi-

legislative, quasi-judicial, or administrative board or committee of the Village or as a representative of the Village without prior approval from the Village Manager. (Ord. 2019-06, 5-14-2019)

CHAPTER 3

COMPENSATION

SECTION:

2-3-1: Pay Plan

2-3-2: Initial Pay Rate

2-3-3: Pay Increases

2-3-4: Promotions

2-3-5: Demotions

2-3-6: Transfers

2-3-7: Reorganization

2-3-8: Overtime

2-3-9: Acting Pay

2-3-10: Compensatory Time

2-3-1: PAY PLAN:

A. The Village has a pay plan. The standards for development of the plan are determined by the Human Resources Department and approved by the Village Manager.

B. The Human Resources Department will make periodic studies of the pay plan and recommend changes as needed.

C. There is no requirement that all individuals assigned to the same salary range receive the same pay. Factors such as merit increases, promotions or other increases permitted, may cause individual pay differences within a salary range. (Ord. 2019-06, 5-14-2019)

2-3-2: INITIAL PAY RATE:

A. Newly hired employees entering the Village work force are paid within the established salary grade of the position and at a level based on experience and qualifications. Any exception to this practice must have the prior approval of the Manager. (Ord. 2019-06, 5-14-2019)

2-3-3: PAY INCREASES:

A. Employees may receive a salary increase by means of a Village wide increase, cost of living adjustment, promotion, reclassification of a pay grade or salary level adjustment based on work performance, acquisition of new skills, advanced education, longevity, or made by the Village based on market data. (Ord. 2019-06, 5-14-2019)

2-3-4: PROMOTIONS:

A. A promotion occurs when an employee is moved from a position in one pay grade classification to another position in a higher pay grade classification. The Village encourages employees to apply for promotions and to develop the skills necessary for promotions.

B. An employee who is promoted shall receive a salary increase to at least the minimum level of the salary grade for the new position and must be equal to or greater than the employee's current salary. (Ord. 2019-06, 5-14-2019)

2-3-5: DEMOTIONS:

A. Generally: A demotion occurs when an employee is placed in a position with a lower salary. Pay adjustment due to a demotion to the new grade will not exceed the maximum pay grade established for the position. An employee may be demoted for the following reasons:

1. The employee requests a demotion;
2. The employee would otherwise be laid off because of reduction in work force;
3. The employee's position has been reclassified to a lower level; or
4. The employee does not perform satisfactorily in his/her current position.

B. Voluntary Demotions: Voluntary demotions are at the employee's request to a position which involves a reduction in salary.

C. Involuntary Demotions: Involuntary demotions are initiated by the supervisor or department director.

D. Demotions For Just Cause: Demotions for just cause shall be in accordance with this title. (Ord. 2019-06, 5-14-2019)

2-3-6: TRANSFERS:

A. A "transfer" is defined as a change from one department to another department to a position within the same salary grade.

B. The effective date of the transfer will be negotiated between the department directors, but shall not exceed two (2) weeks from the date the employee is offered the transfer unless approved by the Manager. (Ord. 2019-06, 5-14-2019)

2-3-7: REORGANIZATION:

A. Reorganization is the elimination, reclassification, creation or realignment of departments, offices, positions or personnel. Reorganization is subject to approval by the Manager. (Ord. 2019-06, 5-14-2019)

2-3-8: OVERTIME:

A. Non-exempt employees who are authorized or permitted, by their respective supervisor or directors, to work in excess of forty (40) hours in the seven (7) day work period are entitled to elect for additional compensation in one of the following ways:

1. Compensatory time off at a rate of one and one-half (1½) times for all time actually worked (as defined by the FLSA) over forty (40) hours in the seven (7) day work period, or

2. Payment for accrued overtime at a rate of 1.5 times the employee's current, regular rate of pay.

B. PTO, holiday, jury duty, bereavement, standby duty or other non-worked time and leave without pay shall not be included in the work period for purposes of computing overtime pay.

C. Overtime work must be approved in advance by the department director. Unauthorized overtime worked shall be subject to disciplinary action, except in the case of a bona fide emergency. (Ord. 2019-06, 5-14-2019)

2-3-9: ACTING PAY:

A. Acting pay may be paid when an employee is assigned the duties of another position on a temporary basis. The Village Manager may authorize a temporary salary increase for the period an employee is assigned the additional duties and responsibilities. The Village Manager will determine the time period of the additional duties and the amount (if any) of the salary increase in coordination with the respective department director(s) and/or managers and the Finance Director as appropriate.

B. When the employee is no longer performing the additional duties, their salary will be adjusted to the pay appropriate to his position. (Ord. 2019-06, 5-14-2019)

2-3-10: COMPENSATORY TIME:

A. Non-exempt employees may be compensated for overtime by receiving compensatory time off at a rate of one and one-half (1½) times for all time actually worked (as defined by the FLSA) over forty (40) hours in the seven (7) day work period. PTO, holiday, jury duty, bereavement, standby duty or other non-worked time and leave without pay shall not be included in the work period for purposes of computing compensatory time. The following limitations apply:

1. Non-exempt police, fire fighters and emergency medical service personnel may not accrue more than four hundred eighty (480) hours of compensatory time (equivalent to 320 hours of overtime work). All other non-exempt employees may not accrue more than two hundred forty (240) hours of compensatory time (equivalent to 160 hours of overtime worked).

2. Supervisors must ensure accrued compensatory time hours do not exceed the maximum limits.

3. An employee who has accrued compensatory time and requests to use it must be permitted to use the time off within a reasonable period after making the request if it does not unduly disrupt department operations. Undue disruption is not merely an inconvenience.

4. Compensatory time off will be utilized in priority over PTO when an employee submits requests for time off.

5. Compensatory time off must be utilized within a twelve (12) month period following the pay period in which it was earned.

6. Compensatory time off is a personal compensation that is not eligible for donation to other employees.

B. Exempt and non-exempt employees may be compensated for Village of Angel Fire approved holidays worked by receiving compensatory time off at a rate of one times the actual holiday time worked up to a maximum of eight (8) hours per holiday. Non-exempt employees working beyond eight (8) hours will be paid at regular rate unless overtime compensation is warranted in accordance with section 2-3-8 of this chapter.

C. Exempt and non-exempt employees may earn compensatory time off for travel under the following conditions and limitations:

1. The employee is in official travel status for time spent traveling between the employee's official duty location (Village of Angel Fire) and the location the employee was sent for official Village business to include but not limited to conferences, training, meetings or other out-of-town travel which is subject to either per diem or travel costs.

2. The travel time causes the employee to exceed the scheduled forty (40) hour work period.

3. Compensatory time off for travel will be approved by the supervisor when the travel time is necessary, reasonable and not otherwise compensable.

4. Compensatory time off for travel is subject to all limitations as set forth in subsection A of this section.
- D. An employee must be paid for his accrued compensatory time under the following circumstances:
1. When the employee's accrued balance exceeds the maximum accrual limits;
 2. When the employee's FLSA status changes from non-exempt to exempt;
 3. When the employee transfers from one position to another that is funded under a separate and distinct accounting fund;
 4. When the employee is voluntarily or involuntarily terminated; and,
 5. When compensatory time earned by a non-exempt employee in any work week is not taken during the 12-month period following the pay period in which it was earned. (Ord. 2019-06, 5-14-2019)

CHAPTER 4

BENEFITS

SECTION:

2-4-1: Insurance And Pension Benefits

2-4-2: Group Insurance

2-4-3: Public Employees Retirement Association

2-4-4: Holidays

2-4-5: Standby/Callback Pay

2-4-6: Work Breaks

2-4-7: Meal Breaks

2-4-8: Leave Defined

2-4-9: Paid Time Off (PTO)

2-4-10: Bereavement Leave

2-4-11: Leaves Of Absence With Pay

2-4-12: Leaves Of Absence Without Pay

2-4-13: Temporary Disability Leave

2-4-14: Family And Medical Leave

2-4-15: Administrative Leave

2-4-16: Benefits While On Unpaid Leave

2-4-17: Domestic Abuse Leave

2-4-1: INSURANCE AND PENSION BENEFITS:

A. Insurance and pension benefits are available to all regular full time employees. Partial benefits are available to all regular part time employees who are regularly scheduled a minimum of twenty seven (27) hours per pay period. See the Human Resources Department for further details. (Ord. 2019-06, 5-14-2019)

2-4-2: GROUP INSURANCE:

A. The Village participates in group insurance plan(s) in which the Village may contribute a portion of the cost for the employee. The employee classification determines whether the insurance is offered to an employee and determines the amount of contributions, if any, made by the Village toward the cost of the insurance. (Ord. 2019-06, 5-14-2019)

2-4-3: PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:

A. Except for employees who are exempt from the Public Employees Retirement Association ("PERA"), Village employees are required to join the Public Employees Retirement Association of New Mexico (PERA). Under this plan, a percentage of an employee's gross pay is deducted each pay period from the employee's payroll check. The Village contributes a percentage to the employee's PERA. The Village will not contribute its portion into PERA while an employee is on unpaid leave of absence or on a workers' compensation absence. (Ord. 2019-06, 5-14-2019)

2-4-4: HOLIDAYS:

A. Paid Holiday Schedule: The Village shall determine the paid holiday schedule annually and make the schedule available to all employees.

B. Holiday Pay: All regular full time employees on the payroll on the day of the holiday are paid eight (8) hours of holiday

pay at their regular rate of pay. If the holiday falls on the employee's scheduled day off, the employee may choose to receive either eight (8) hours of holiday pay at their regular rate of pay or eight (8) hours of compensatory time. All eligible regular part time employees on payroll on the day of the holiday are paid four (4) hours of holiday pay at their regular rate of pay. If the holiday falls on the employee's scheduled day off, the employee may choose to receive either four (4) hours of holiday pay at their regular rate of pay or four (4) hours of compensatory time.

C. Overtime; Holidays: When an employee does not work on a holiday but receives holiday pay, these hours are not considered as time worked in the calculation of overtime pay.

D. Working On Holidays: All eligible employees are entitled to enjoy a certain number of officially designated holidays while employed by the Village. However, if the work requirements of the department are such that an employee is required to work on an official holiday, the employee may elect to receive either holiday pay at their regular rate or compensatory time. Regular full-time employees will be compensated for eight (8) hours plus regular pay for the hours actually worked and regular part time employees will be compensated for four (4) hours plus regular pay for the hours actually worked. Exempt status employees whose work requirements are such that they must work on an officially designated Village holiday will be given compensatory time of eight (8) hours.

E. Holidays On Weekends: When a holiday falls on Saturday, the preceding Friday is observed as a holiday. When a holiday falls on Sunday, the following Monday is observed as a holiday.

F. Holidays During Paid Leaves: Employees on scheduled and approved PTO status do not have the day of the holiday charged against accrued PTO and will receive holiday pay.

G. Unscheduled/Approved PTO And Holidays: When an employee calls in to request PTO due to an illness the day prior to or after a holiday, the department director or the Human Resource Department may require the employee to provide a doctor's certificate confirming the employee's or employee's immediate family illness or injury. If the illness or injury involves the employee, the employee may also be required to provide proof of medical clearance to return to work. (Ord. 2019-06, 5-14-2019)

2-4-5: STANDBY/CALLBACK PAY:

A. Standby pay is paid when an employee is required to be available to answer service requests. Volunteer activity is not considered as standby time.

B. Employees required to be on standby shall be paid at the employee's regular rate of pay.

C. If the employee does not respond to calls when scheduled on standby, the employee will not be paid for the scheduled standby hours and will be subject to disciplinary action, up to and including termination.

D. Callback pay is provided to compensate off duty employees who are not on standby and who are requested to report to work on an unscheduled basis.

1. Employees on standby will be paid for actual time worked, not to include commute time unless activated under emergency response conditions. Actual time worked will be paid out at the employee's regular rate of pay unless actual hours worked exceed forty (40) hours of work in the current work week and the employee is therefore eligible for overtime compensation in accordance with section 2-3-8 of this title.

2. When an employee is on duty and directed to continue or remain at work, the extra work time is paid as scheduled work. (Ord. 2019-06, 5-14-2019)

2-4-6: WORK BREAKS:

A. Each employee is granted a work break up to fifteen (15) minutes every four (4) hours. These work breaks may be taken in shorter increments but may not exceed fifteen (15) minutes. Department directors shall schedule and/or approve work breaks. Break time cannot be accumulated for other purposes such as vacation, compensatory time off, or as a means of leaving the job early. Abuse of break time is grounds for disciplinary action. (Ord. 2019-06, 5-14-2019)

2-4-7: MEAL BREAKS:

A. Employees shall be scheduled unpaid time off to eat during each work shift. Meal breaks are normally one hour, except for departments with established thirty (30) minute meal breaks. However, occasionally circumstances may require the employee to continue working, in which case the meal period will be considered time worked. Employees are encouraged to take this scheduled break time and may not accumulate meal breaks for purposes such as vacation, compensatory time off, or as a means of leaving the job early. (Ord. 2019-06, 5-14-2019)

2-4-8: LEAVE DEFINED:

A. Leave is any authorized absence, with or without pay, during regularly scheduled work hours, approved in advance by the department director and/or Village Manager as required. Requests for leave shall be submitted to the department director on a "request for leave" form, available in each department. Both approved and disapproved "request for leave" forms will be filed in the employee's personnel file.

B. If circumstances prevent an employee from completing the form prior to the leave and the department director verbally approves the leave, the "request for leave" form must be completed when the employee returns to work.

C. Absence without leave is an unauthorized absence, subject to disciplinary action up to and including termination. Three (3) or more unauthorized absences are grounds for termination. (Ord. 2019-06, 5-14-2019)

2-4-9: PAID TIME OFF (PTO):

A. Paid Time Off (PTO): PTO is intended to provide employees with flexible paid time off from work that can be used for such needs as vacation, personal or family illness, doctor appointments, school, volunteerism, and other activities of the employee's choice. The Village's goal in offering PTO is to reduce unscheduled absences and the need for increased supervisory oversight regarding work attendance.

B. General PTO Provisions:

1. The department director shall determine when PTO shall be granted in his department.
2. The Village Manager approves or disapproves leave for department directors.
3. Employees will be given preference for scheduling PTO time according to continuous length of service.
4. Employees are paid for the PTO they have accrued at employment termination. Employees who give two (2) weeks' notice of employment termination must work the two (2) weeks without utilizing PTO.

C. Guidelines For PTO Use:

1. Each regular, full time employee will accrue PTO bi-weekly in increments based on either their position or their length of service as defined below. PTO is added to the employee's PTO bank on the closing day of each pay period. PTO taken will be subtracted from the non-exempt employee's accrued time bank as actual time used in no less than one-half (1/2) hour increments. Exempt employees will submit PTO requests for any scheduled workday in which the employee will not be present for work for a minimum of four (4) hours. Each regular part time employee shall accrue PTO at one-half (1/2) of the same scheduled rate. Conditional employees and service contracted independent contractors are not eligible to accrue PTO.

2. Eligibility to accrue PTO is contingent on the employee either working or utilizing accrued PTO for the entire bi-weekly pay period. PTO is not earned in pay periods during which unpaid leave, short or long term disability leave or workers' compensation leave are taken.

3. Employees may use time from their PTO bank in no less than one-half (1/2) hour increments. Time that is not covered by the PTO policy, and for which separate policies or guidelines exist, include Village paid holidays, bereavement leave (section 2-4-10 of this chapter) and other leaves of absence with pay (section 2-4-11 of this chapter).

4. Employees must submit a request for PTO to their supervisor a minimum of three (3) working days prior to the first day of requested PTO unless PTO is used for legitimate, unexpected illness or emergencies. Supervisors must expedite approved requests to the Finance Department to ensure receipt prior to the first day of the requested PTO. Planned/scheduled PTO must be approved by the employee's supervisor and department director in advance. All disapproved PTO requests will be forwarded through the employee's chain of command to the Village Manager within twenty four (24) hours of disapproval. All disapproved PTO requests will be reviewed by the Village Manager for validation of the circumstances for disapproval of the PTO request. All PTO requests, both approved and disapproved, will be maintained in the employee's Employee File per section 2-2-11 of this title.

D. Paid Time Off (PTO) Exceptions:

1. Employees that miss more than three (3) consecutive unscheduled days may be required to present a doctor's release to Human Resources that permits them to return to work. Employees who do not provide such validation and/or release may be subject to disciplinary action.

2. Under the Village's Family and Medical Leave Act (FMLA) policy, all accrued PTO time is taken before the start of unpaid FMLA time.

3. An employee who is unable to come to work due to illness shall notify the supervisor or department director a minimum of thirty (30) minutes before the scheduled start of the work shift.

4. At the discretion of the department director an employee may be sent home on PTO or unpaid leave if the employee is too sick or injured to perform his job duties.

5. An employee who misses two (2) consecutive days of work without notice to their supervisor may be considered to have voluntarily terminated their employment. Time that is not covered by the PTO policy, and for which separate policies or guidelines exist, include Village paid holidays, bereavement leave (section 2-4-10 of this chapter) and other leaves of absence with pay (section 2-4-11 of this chapter).

E. Specific Eligibility For Paid Time Off (PTO):

1. Each regular full time employee shall accrue PTO based on length of service, in accordance with the following schedule. Each regular part time employee shall accrue one-half (1/2) of the same schedule. Exempt employees hired in certain department director positions, by virtue of their position, experience and responsibilities, may be approved for higher PTO accrual rates than those based solely on years of service to the Village of Angel Fire. Any higher PTO accrual rate shall be recorded in a memorandum signed by the Mayor, Village Manager and the employee and maintained in the employee's Employee File.

2. Years of service:

Years	Hours
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0 - 1	120 working hours per year, earned at a rate of 4.62 hours for each full pay period in a calendar year.
2 - 5	144 working hours per year, earned at a rate of 5.54 hours for each full pay period in a calendar year.
6 - 10	176 working hours per year, earned at a rate of 6.79 hours for each full pay period in a calendar year.
11 - 15	200 working hours per year, earned at a rate of 7.69 hours for each full pay period in a calendar year.
16 - 20	224 working hours per year, earned at a rate of 8.62 hours for each full pay period in a calendar year.
21 - 25	240 working hours per year, earned at a rate of 9.23 hours for each full pay period in a calendar year.
26 - retirement	264 working hours per year, at a rate of 10.15 hours for each full pay period in a calendar year.

F. Annual Carry Forward Limits For Paid Time Off (PTO):

1. Regular full time employees shall be allowed to accrue and carry forward PTO on an annual basis based on length of service, in accordance with the following schedule. Exempt employees hired in certain department director positions, by virtue of their position, experience and responsibilities, may be approved for higher annual carry forward limits than those based solely on years of service to the Village of Angel Fire. Any higher annual carry forward limits for PTO shall always be recorded in a memorandum signed by the Mayor, Village Manager and the employee and maintained in the employee's Employee File. Each regular part time employee shall accrue and carry forward one-half (1/2) of the same schedule. All carry forward limits will be adjusted as of July 1 of each year in order to coincide with the Village's fiscal calendar. All accrued PTO in excess of the employee's carry forward limits will be forfeited. Any exception to annual carry forward limits for PTO hours must be approved in writing by the Village Manager.

2. Years of service:

Years	Hours
0 - 1	120 working hours
2 - 5	212 working hours
6 - 10	264 working hours
11 - 15	300 working hours
16 - 20	336 working hours
21 - 25	360 working hours
26 - retirement	360 working hours

(Ord. 2019-06, 5-14-2019)

2-4-10: BEREAVEMENT LEAVE:

Bereavement leave is available to employees as follows:

A. Procedure:

1. In order to determine eligibility for leave with pay and benefits, employees requesting bereavement leave must complete and submit the appropriate "request for leave" form.

B. Guidelines:

1. When a death occurs in an employee's immediate family, the employee may receive bereavement leave without loss of pay or benefits. Bereavement leave is limited to a maximum of five (5) days per event.

2. Bereavement leave will not be charged against accrued PTO or holiday leave unless additional bereavement leave, in excess of five (5) days, is requested by the employee and approved by the department director.

3. "Immediate family" means: father, mother, spouse, children, father-in-law, mother-in-law, brother, sister, grandparents, grandchildren, brother-in-law, sister-in-law, aunt, uncle, nieces, nephews, stepparents, stepchildren, or other person who is approved as a qualifying immediate family member by the Village Manager. (Ord. 2019-06, 5-14-2019)

2-4-11: LEAVES OF ABSENCE WITH PAY:

A. Village Witness Court Appearance, Jury Duty:

1. An employee summoned to jury duty will be granted time off with pay and benefits for the time actually spent on jury duty. Pay will not exceed that of the employee's regularly scheduled pay for any workday and will not include travel time incurred for jury duty. The Village may reschedule the working hours and days of work of any employee to accommodate the time spent in jury duty.

2. An employee who is subpoenaed to appear in court as a witness in relation to his/her position with the Village shall be granted time off with pay and benefits, including travel time.

B. Required: Employees summoned for jury duty or court appearances must:

1. Notify his/her supervisor of the summons or subpoena immediately upon receipt and produce the summons or subpoena to his/her supervisor with an estimate of the duration of the absence;
2. Report to the supervisor immediately upon the conclusion or continuance of such jury duty or court appearance;
3. Turn over any payment from the court (minus travel reimbursement) to the Village in order to receive pay for the court appearance or jury duty; and
4. In order to receive time off with pay and benefits for jury duty or a court appearance, the employee must abide by the provisions of this section.

C. Other Court Appearances:

1. If an employee is subpoenaed as a witness other than for the reason set forth in subsection A2 of this section, he/she may use accrued PTO. If accrued PTO is unavailable, unpaid leave to cover the absence may be approved by the Village Manager.

D. Meetings:

1. An employee may be granted leave with pay and benefits to attend professional meetings or conferences which will be of benefit to the Village and contribute to the employee's work performance.

E. Examinations:

1. An employee may be granted leave with pay and benefits to take certification or licensing examinations, provided such examinations are a bona fide requirement of his/her job.

F. Military Leave:

1. When an employee is called to active duty, the Village shall follow the applicable Federal and State laws, rules and regulations. An employee who is ordered to appear for a physical examination for induction into military service will be granted leave with pay and benefits for such examination. (Ord. 2019-06, 5-14-2019)

2-4-12: LEAVES OF ABSENCE WITHOUT PAY:

A. Request And Approval:

1. The Village Manager is the only person with the authority to approve leaves of absence without pay. All leave without pay must be approved in advance. The employee must request leave without pay by submitting a leave request to the department director. Final approval for leave without pay must be given by the Village Manager.

- a. A regular employee may request a leave of absence without pay for a period of time up to four (4) months.
- b. PTO will be frozen and will not accrue during an unpaid leave.
- c. Employees on leave without pay are not eligible for holiday pay or holiday compensatory time.

2. An employee on unpaid leave not covered under the FMLA may maintain his/her health insurance coverage by paying the total cost of the insurance premium.

3. An employee must contact the department director and the Human Resources Department a minimum of thirty (30) days prior to the expiration of the unpaid leave stating the desire to return. There is no guarantee except as provided under the FMLA that the former position or any position will be available to the employee, upon the expiration of the leave without pay. An employee who fails to timely return from leave will be deemed to have voluntarily resigned.

B. Effective Date Of Leave: A leave of absence shall be effective the first date of absence and shall continue through the last date of absence. Length of service will reflect the unpaid leave of absence.

C. Military Leaves: An employee who is drafted, volunteers for active service or who is ordered to active duty in connection with reserve activities shall, upon presentation of a copy of his/her official orders, be granted leave. When an employee is called to active duty, the Village shall follow the applicable Federal and State laws, rules and regulations. (Ord. 2019-06, 5-14-2019)

2-4-13: TEMPORARY DISABILITY LEAVE:

A. General Provisions:

1. Temporary disability leave shall constitute a period of leave without pay during which the employee shall retain his/her position and status for the duration of the leave. The employee will not accumulate PTO during the absence. An employee who is off work for more than two (2) weeks shall be required to take leave pursuant to the Family and Medical Leave Act (FMLA).

B. Eligibility:

1. Any eligible employee wishing to take a temporary disability leave must provide medical documentation to support

the need for a leave.

2. Before electing to take temporary disability leave, an employee meeting any of the conditions cited above may choose to exhaust accumulated PTO. The decision to first use PTO prior to temporary disability leave shall rest with the employee.

C. Petition For Extension: If, at the end of the period of temporary disability leave, the employee wishes to request an extension, the employee must petition the Village Manager who may order a physical or mental examination performed at the Village's expense to establish the fitness of the employee to return to work. The Village Manager shall determine, after review of the medical findings, if the employee shall be granted additional time for a period not to exceed thirty (30) calendar days, or be required to return to work at the end of the temporary leave without extension, or be terminated from employment. The Village Manager shall render this decision on the basis of the medical findings and the needs of the Village at the time. (Ord. 2019-06, 5-14-2019)

2-4-14: FAMILY AND MEDICAL LEAVE:

A. A regular employee meeting the applicable criteria shall be granted leave as established in the Family and Medical Leave Act of 1993 (FMLA) and all current and future statutory amendments. The FMLA entitles eligible regular employees to take unpaid, job-protected leave for specified family and medical reasons with the continuation of group health insurance benefits under the same terms and conditions as if the employee had not taken leave. Employees will be required to pay their portions of the employee health insurance for the benefits to remain in effect. A copy of this Act is on file in the Human Resources Department and available for inspection by all employees.

B. The employee is responsible for requesting FMLA as far in advance as possible in order to permit evaluation and a determination if the FMLA applies. Applicable forms requesting family and medical leave may be obtained through the Human Resources Department. If the Family and Medical Leave Act benefit is exhausted and the employee is unable or chooses not to return to work, the employee will be terminated. (Ord. 2019-06, 5-14-2019)

2-4-15: ADMINISTRATIVE LEAVE:

A. The Village Manager is the only person with the authority to place an employee on administrative leave with or without pay.

B. Administrative leave may be utilized to allow time to conduct an investigation or to allow time pending the outcome of an investigation, or otherwise as is deemed necessary by the Village Manager. (Ord. 2019-06, 5-14-2019)

2-4-16: BENEFITS WHILE ON UNPAID LEAVE:

A. PTO does not accrue when an employee is on unpaid leave.

B. Employees on unpaid leave shall not receive holiday pay.

C. Retirement contributions will not be made by the Village on an employee's behalf while on unpaid leave.

D. The Village portion of the group health insurance premium will not be paid while an employee is on unpaid leave with the exception of unpaid leave taken in accordance with the FMLA. The employee will be responsible for the full premium cost of insurance with the exception of unpaid leave taken in accordance with the FMLA. (Ord. 2019-06, 5-14-2019)

2-4-17: DOMESTIC ABUSE LEAVE:

A. Employees may take domestic abuse leave to exercise rights granted by State law. "Retaliation", meaning an adverse action against an employee, including threats, reprisals or discrimination, for taking domestic abuse leave is prohibited.

B. Domestic abuse leave is intermittent paid or unpaid leave time for up to fourteen (14) days in any calendar year, taken by an employee for up to eight (8) hours in one day, to obtain or attempt to obtain an order of protection or other judicial relief from domestic abuse or to meet with law enforcement officials, to consult with attorneys or district attorneys' victim advocates or to attend court proceedings related to the domestic abuse of an employee or an employee's family member. "Family member" means a minor child of the employee or a person for whom the employee is a legal guardian.

C. In an emergency, notice must be given by the employee or his designee to the Village within twenty four (24) hours of commencing such leave.

D. Verification of the need for domestic abuse leave is required. Verification may be either: 1) a police report evidencing domestic abuse of the employee or a family member; 2) a copy of an order of protection or other court order; or 3) a written statement by the employee's attorney, a victim advocate, a law enforcement official or a prosecuting attorney that the employee did or is scheduled to appear in court in connection with a domestic abuse incident.

E. Domestic abuse leave will be charged against accrued PTO, and if insufficient PTO has accrued for such purpose, the time will be unpaid leave.

F. Information provided to or obtained by the Village relating to domestic abuse leave for any employee shall be confidential, unless the employee consents to, or if a court order or other Federal or State law requires disclosure. (Ord. 2019-06, 5-14-2019)

CHAPTER 5

EDUCATION AND TRAINING

SECTION:

2-5-1: General Statement

2-5-2: Educational Reimbursement

2-5-3: Training Expense

2-5-1: GENERAL STATEMENT:

A. The Village shall pay for mandatory training and job related training as approved by the department director during off duty time. (Ord. 2019-06, 5-14-2019)

2-5-2: EDUCATIONAL REIMBURSEMENT:

A. Reimbursements: The Village Manager has the authority to approve any course not exceeding a total cost of five hundred dollars (\$500.00), including tuition, books and other course materials, provided the employee is not receiving benefits under the GI bill or other aid programs. Courses recognized for educational assistance are:

1. Job Improvement Courses: Courses directly related to the employee's job and ability to perform his/her duties through more advanced techniques and/or increase his/her opportunity for promotion.
2. In Service Training Courses: Courses in management and supervisory development. All employees are encouraged to participate in this type of training.

B. Completion Of Course: Upon successful completion of a course, the employee's personnel record will be documented with his/her educational achievement, and the Village Manager will arrange for reimbursement of expenses for tuition, books and other course materials, based on the following schedule:

Letter grade C or higher: One hundred percent (100%).

Lower than letter grade C: Zero percent (0%).

Reimbursement for courses in which letter grades are not issued will be in the following manner:

Satisfactory: One hundred percent (100%).

Unsatisfactory: Zero percent (0%).

C. Termination Of Employment:

1. Should an employee leave Village employment, for any reason except death, disability or retirement within two (2) years of completing coursework, he may be required to reimburse the Village for the total cost of the educational reimbursement received.

2. Payment may be taken from an employee's final paycheck, including benefits. If monies owed are in excess of the total of the final paycheck, a payment plan may be arranged.

D. Procedure For Reimbursement:

1. In any case an employee seeking reimbursement from the Village must complete a requisition form and forward the completed form to the Finance Department and Procurement Officer in advance of taking the course. There will be no advance payments for tuition unless special circumstances, as determined by the Village Manager, are approved.

2. An employee is required to provide a certificate of completion of the course and a record of the grade. An employee who does not complete the course will be ineligible for reimbursement.

E. Reimbursement For Short Courses And Certificate Achievement Courses:

1. In those cases where an employee is participating in a short course or program requiring him/her to take a certification or licensing examination, the Village will require the employee to reimburse the Village for all tuition and fees directly associated with the instructional content of the course should he/she fail to obtain the certificate or passing grade. The reimbursement back to the Village will not include the cost of meals and lodging and/or per diem.

2. In such cases where a makeup examination is provided within a twelve (12) month period, an employee will be given the opportunity to retest and the Village will withhold the reimbursement action until the test scores are available. In situations where the employee chooses not to take the reexamination, the reimbursement will be required immediately. (Ord. 2019-06, 5-14-2019)

2-5-3: TRAINING EXPENSE:

A. Costs associated with employee training include a variety of components, including employee wages and wage related expenses; course registrations, tuition and materials; travel, lodging and subsistence expenses; and equipment cost, etc. The following policies apply with regard to the expenditure of Village funds for training purposes:

1. Selection of training method, timing, etc., is to be on the basis of maximum cost effectiveness and within approved budgets.

2. Employees participating in training sponsored by the Village will share their knowledge, course materials, etc., with other employees so as to maximize the benefit received from the Village expenditures.

3. Approvals from the employee's department director and the Village Manager are required for training expenditures by the Village.

4. Upon completion of any employee training, appropriate documentation will be added to the employee's personnel file. The employee may also be eligible for a wage increase if the training is required by the Village to obtain certification for the employee's position. (Ord. 2019-06, 5-14-2019)

CHAPTER 6

WORK RELATED INJURIES AND WORKERS' COMPENSATION

SECTION:

2-6-1: On The Job Injury

2-6-1: ON THE JOB INJURY:

A. All Employees Covered; Accident Or Injury Report: All employees of the Village are covered by workers' compensation insurance. The employee is responsible for immediately reporting any accident or injury to the supervisor in charge. The supervisor's accident report shall be submitted to the Human Resources Department within twenty four (24) hours of the accident or injury or the receipt of the employee's report. Notice of accident or injury forms will be completed regardless of whether or not the employee requires medical attention.

B. Lost Time Claims:

1. Lost time accidents are paid in accordance with workers' compensation guidelines, and on the basis of average weekly wage figures as published at the time of injury.

2. If the employee requires time off from work, the first seven (7) days will be charged to any available PTO. If PTO is insufficient, this time off from work will be leave without pay.

3. If work is available in the department and the employee has medical clearance, he may return to work in a modified or light duty assignment at his regular rate of pay. However, the availability or continuation of modified duty work is not guaranteed.

4. If a modified duty assignment is not available, the injured employee will be placed on an unpaid leave of absence. (PTO will not accrue during this time.)

5. For the first three (3) months an employee is on workers' compensation disability, the Village will continue paying the Village's share of group insurance. When the employee has been off work for three (3) months, the employee then becomes solely responsible for one hundred percent (100%) of voluntary deductions normally withheld from each paycheck. The employee will not accrue PTO while receiving workers' compensation. The Village will not contribute to PERA while an employee is on workers' compensation disability.

6. The injured employee has the right to choose his/her healthcare provider for the first sixty (60) days. After the first sixty (60) days, the Village reserves the right to change the employee's healthcare provider in accordance with the New Mexico Workers' Compensation Act. (Ord. 2019-06, 5-14-2019)

CHAPTER 7

SAFETY

SECTION:

2-7-1: Statement Of Intent And Oversight

2-7-2: Safety Incentive Program

2-7-1: STATEMENT OF INTENT AND OVERSIGHT:

A. The Village is vitally interested in the safety and well being of every employee and the general public. It is the intent of the Village to provide safe equipment, procedures, and surroundings for all employees.

B. The Human Resources Director is responsible for establishing a comprehensive safety program.

C. A Safety Committee appointed by the Human Resources Director will conduct meetings and review all on the job injuries in an effort to avoid similar future injuries. The Safety Committee will review all injury reports, safety investigations and employee accident reports and report findings to the Village Manager. The Safety Committee will also visit Village facilities and sites periodically and identify needed repairs and advise the Village Manager of its recommendations. The Safety Committee will meet on a regular basis, at least semi-annually to review Village safety performance. (Ord. 2019-06, 5-14-2019)

2-7-2: SAFETY INCENTIVE PROGRAM:

A. Village Reward Policy: In order to emphasize safety as a high priority, the Village has instituted a policy of rewarding any employee who works safely and does not suffer any preventable accidents.

B. Eligibility Of Employees: Safety incentives may be offered annually with the Manager's approval and Safety Committee review and recommendation to an employee who does not experience a preventable accident including any vehicle accident in a twelve (12) month period and meets the job related safety course training hours requirement at the end of the previous fiscal year. New employees and those not employed by the Village for the entire previous fiscal year will be exempted from the safety course training hour requirement. For purposes of this section, the "safety year" is defined as December 1st of one year through November 30th of the following year.

C. Incentive Given In December: The safety incentive, when offered, will be dispersed in December. (Ord. 2019-06, 5-14-2019)

CHAPTER 8

CODE OF CONDUCT

SECTION:

2-8-1: Application Of Provisions

2-8-2: Purpose

2-8-3: Policy

2-8-4: Disclosures

2-8-5: Harassment

2-8-6: Requirement To Disclose And Behavior Boundaries For Romantic Relationships Between Co-Workers; Discipline

2-8-7: Respect For Co-Workers; Gossip; Bullying

2-8-8: Violations Of Laws; Indictments

2-8-1: APPLICATION OF PROVISIONS:

A. In performing Village duties, a Village employee holds a special trust in that he/she constantly interacts with the public, our constituents and fellow employees. Village government requires its employees to satisfy standards of reliability, integrity, industriousness, helpfulness, courtesy, efficiency, patience, grooming, dress, and language which are appropriate to the work situation and acceptable to the majority of the community. (Ord. 2019-06, 5-14-2019)

2-8-2: PURPOSE:

A. Village government holds its employees to the highest standards of integrity and personal conduct. Employees must uphold State and Federal laws and the rules, regulations, policies, and ordinances of the Village of Angel Fire. Employees must conduct themselves in a professional manner, both on and off the job. Employees may not use their positions or official capacities to obtain personal gain or to give benefits or special treatment to any person. Any employee who engages in any such behavior will be subject to disciplinary action, up to and including termination. All employees must avoid any action, conduct, or behavior that could be viewed as a violation of this code of conduct. (Ord. 2019-06, 5-14-2019)

2-8-3: POLICY:

A. Employees shall make all efforts to maintain the public's trust.

B. Employees shall not use their positions for personal gain or to give special benefit or treatment to any person.

C. An employee shall not use his/her official position to:

1. Secure employment or obtain contracts from others,
2. Accept pay from anyone other than the Village for the performance of their official duties,
3. Take or withhold action on a matter in which they have an outside personal or financial interest,
4. Coerce any employee in any manner which will result in financial benefit,
5. Use Village time, equipment, property or facility for financial benefit.

D. Employees shall not solicit or accept gifts that benefit the employee's (or anyone else's) personal or financial interest if it can be reasonably inferred that the gift is intended to influence the employee's actions or judgment. Gifts include money, items of value, services, loans, travel, entertainment, hospitality, and employment.

E. Employees shall not use or disclose nonpublic information gained from Village employment if the use or disclosure could result in a financial or personal benefit to the employee or anyone else.

F. No employee shall use or disclose confidential information regarding the operation of the Village, Village finances, personnel matters or other nonpublic information acquired during the course of their employment.

G. No employee (or immediate family or household member) whose action or inaction can affect the award, administration of a grant, contract, proposal, or bid award, may apply for, be party to or have an interest in that grant, contract, proposal, or bid award.

H. No employee shall aid another employee to violate this policy. (Ord. 2019-06, 5-14-2019)

2-8-4: DISCLOSURES:

A. Any employee who has a financial interest or who acquires a financial interest, direct or indirect, in any corporation, firm, or contract with the Village, is required to disclose that interest in writing to the department director.

B. The department director will provide a written determination as to whether a violation of the code of conduct exists. The Manager will make a determination which may include: reassignment of duties to avoid the violation, public disclosure of the circumstances to all involved parties, or allowing the employee to continue in his/her current position.

C. Other violations or failure to disclose business or financial interests will be handled through disciplinary action as set forth in chapter 9 of this title. (Ord. 2019-06, 5-14-2019)

2-8-5: HARASSMENT:

The Village of Angel Fire does not permit or tolerate harassment of any kind, including sexual harassment.

A. Sexual Harassment:

1. Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship. Village policy directs that all employees will work in an environment free from unsolicited and unwelcome sexual overtones.

2. "Sexual harassment" is defined as a deliberate or repeated unsolicited verbal comment, gesture or physical contact of a sexual nature which is unwelcome. Any action which involves implicit or explicit sexual behavior to control, influence or affect the career, salary or position of another employee or applicant for employment also constitutes sexual harassment.

3. It is a violation of Village policy for employees to engage in any act or behavior as defined herein as "sexual harassment". The Village will take disciplinary action against any employee who violates this policy. Such action may include a range of disciplinary measures, up to and including termination.

4. Employees are advised to immediately report complaints of harassment. The following is a list of people available to hear complaints:

- a. Human Resources Department.
- b. Department director.
- c. Immediate supervisor.
- d. Village Manager.

5. Complaints or allegations of harassment shall be investigated in a timely manner, examined impartially and resolved promptly.

6. In each case, specific facts shall be impartially evaluated to reach objective determinations as to each complaint or report made.

7. The employee has the responsibility to factually support the allegations. Unsubstantiated reports, complaints or charges may result in discipline, up to and including termination.

B. Harassment:

1. Slurs, actions, comments, displays, writings or pictures which are derogatory to any person's gender, race, age, national origin, religion, disability, marital/familial status or sexual orientation are not tolerated by the Village. (Ord. 2019-06, 5-14-2019)

2-8-6: REQUIREMENT TO DISCLOSE AND BEHAVIOR BOUNDARIES FOR ROMANTIC RELATIONSHIPS BETWEEN CO-WORKERS; DISCIPLINE:

A. Objective: To establish boundaries as to how relationships between employees shall be conducted during working hours and within the working environment; requiring disclosure; discipline.

1. This policy does not prevent the development of friendships or romantic relationships between co-workers; it does establish requirements for disclosure and behavior boundaries in the workplace.

2. During working hours and in working areas, employees are required to conduct themselves in an appropriate workplace manner that does not interfere with others or with overall productivity.

3. Employees are strictly prohibited from engaging in any inappropriate physical contact with each other that would in any way be deemed inappropriate in the workplace at any time.

4. An employee who begins any romantic or sexual relationship with another employee shall immediately disclose such fact in writing to their supervisor or the Human Resources Director, so that action may be taken to avoid any conflict of interest or the appearance of a conflict of interest. Employees engaged in any romantic or sexual relationship may be transferred to avoid any conflict or the appearance of any conflict of interest, favoritism or impartiality. Employees engaged

in any romantic or sexual relationship may be required to sign statements confirming that the relationship is voluntary and consensual and does not constitute sexual harassment.

5. Any employee who is in a position of supervision shall not engage in any romantic or sexual relationship with an employee who reports to or works under the supervision of such employee. In the event that such relationship begins, the employee who is in the position of supervision shall immediately disclose such relationship to the Human Resources Director so that the other employee may be assigned/transferred to another position or supervisor to avoid any conflict of interest, the appearance of a conflict of interest, or favoritism and to maintain impartiality.

6. Failure to disclose as is required in subsection A4 or A5 of this section is grounds for disciplinary action, up to and including termination.

7. Disclosures and statements are confidential and will be handled as if non-public records, to the extent permissible by law.

8. This policy applies to all romantic or sexual relationships regardless of the sexual orientation of the parties involved. (Ord. 2019-06, 5-14-2019)

2-8-7: RESPECT FOR CO-WORKERS; GOSSIP; BULLYING:

A. Gossip: The Village expects its employees to treat each other with respect. Gossiping is harmful to the workplace and should be avoided by all employees. Incidents of gossiping may subject employees to discipline. This policy does not apply to discussions by and among employees permitted by law, including discussions of wages and terms and conditions of employment.

B. Bullying: The Village does not tolerate bullying of any kind. An employee who uses words, threats, intimidation or other behavior to improperly influence, harm, and/or coerce another employee will face disciplinary action up to and including termination. (Ord. 2019-06, 5-14-2019)

2-8-8: VIOLATIONS OF LAWS; INDICTMENTS:

A. Notify Supervisor: An employee shall immediately notify his/her immediate supervisor when information has been filed by a prosecuting official against him/her for an offense or violation of law (including moving traffic violations that may cause the employee to lose his/her driving privileges) and/or when indicted by a grand jury.

B. Suspension For A Felony Indictment: Employees indicted by a grand jury or on whom a prosecuting official has filed information for a felonious offense may be suspended without pay but only with prior approval of the Village Manager. Such suspension may continue until final resolution of the felony charge.

C. Results Of Indictments; Action By Village:

1. If the employee pleads nolo contendere, or guilty, to any charge or is tried and found guilty, the employee may be immediately terminated from employment.

2. In the event a person is tried and acquitted, or the information or indictment is dismissed or quashed, the employee's department director and the Village Manager will review his/her employment status and make a decision regarding continued employment.

3. If the incident or charge is directly work related, the Village may take any disciplinary action permitted by this title. (Ord. 2019-06, 5-14-2019)

CHAPTER 9

DISCIPLINARY PROCESS AND GRIEVANCE PROCEDURE

SECTION:

2-9-1: Purpose

2-9-2: Authority To Discipline

2-9-3: Prohibited Activities

2-9-4: Disciplinary Action; Requirements

2-9-5: Responsibility Of Supervisor

2-9-6: Types Of Disciplinary Action

2-9-7: Predetermination Hearing

2-9-8: Post-Disciplinary Action Review

2-9-9: Grievance Defined

2-9-10: Authority To File A Grievance

2-9-11: Village Council Grievance Review

2-9-12: ADA Grievances

2-9-1: PURPOSE:

A. The policies contained herein are intended to provide department directors/supervisors with direction and guidelines for fair, equitable, and consistent application of solution oriented discipline. (Ord. 2019-06, 5-14-2019)

2-9-2: AUTHORITY TO DISCIPLINE:

A. The Village Manager, department directors, and supervisors have the authority and responsibility to discipline employees pursuant to this title.

B. Management is expected to be impartial in the supervision of their employees. If circumstances exist or are believed to exist that could compromise a supervisor's impartiality, or create the appearance of an absence of impartiality, the Village Manager shall review the matter and take such action, as is necessary, including reassignment of an employee, to ensure impartial and fair treatment of all involved. (Ord. 2019-06, 5-14-2019)

2-9-3: PROHIBITED ACTIVITIES:

A. The activities listed below are inconsistent with Village employment and are not in the best interest of the Village. Employees engaging in these prohibited activities will be subject to disciplinary action, up to and including termination. Employees shall not engage in:

1. Insubordination:
 - a. Refusal to carry out a reasonable request given by a supervisor.
 - b. Abusive language toward a supervisor and/or another employee.
2. Physical Harm/Assault, Threats Of Violence: Inflicting bodily harm, threatening, verbally or physically, directly or indirectly, another person or employee.
3. Unauthorized Possession Of Weapons: Possession of weapons on Village premises or property with the exception of authorized police officers.
4. Theft/Destruction Of Village Property:
 - a. Taking, removing, damaging, destroying, or tampering with Village property or funds.
 - b. Damaging/destroying Village property due to failure to use proper care, equipment, or procedures.
 - c. Personal use of Village equipment, materials, tools, supplies, etc., without proper authorization.
5. Fraud: Falsification of Village records or record keeping (e.g., employment applications, attendance records, time cards, purchasing activities, etc.).
6. Misconduct:
 - a. Smoking in Village buildings or vehicles.
 - b. Sleeping while being paid by the Village for work time.
 - c. Gambling on any Village work site or location or while being paid by the Village for work time.
 - d. Rudeness or acts of disrespect to the public, elected officials, coworkers, or supervisors. Uncooperative actions or attitude by an employee in dealing with fellow employees or other conduct which substantially interferes with the performance of his/her or another employee's work.
 - e. Violation of any Village departmental policy or procedure or regulation; attempts to induce or the inducement of any Village employee to commit a violation of any policy, procedure or regulation.
 - f. Revealing nonpublic, confidential information or removal of Village records.
 - g. Receiving excessive personal phone calls, visitors or e-mail while being paid by the Village.
 - h. Making false statements verbally or in writing regarding Village business or making comments which discredit the Village, elected officials or other employees.
 - i. Other acts or omissions that adversely affect the welfare of citizens, other employees or the effective operation of the Village.
 - j. Harassment of any type.
7. Drug/Alcohol Prohibitions:
 - a. Manufacture, distribution, possession or use of drugs/alcohol in the workplace or on Village property.
 - b. Reporting to work under the influence of drugs or alcohol.
 - c. Additional provisions, policies, and prohibited activities pursuant to chapter 10, "Drug Free Workplace", of this title.
8. Violation Of Law:

a. Violations of or failure to comply with Village, County, State or Federal laws or regulations which are job related or which violation or failure to comply discredits the Village, public officials, fellow employees or themselves.

b. Failure to notify management of any violation of laws leading to pending legal action, arrest, or incarceration.

9. DWI/DUI:

a. Any driver convicted of a DWI/DUI offense after March 26, 1999, who has any prior DWI/DUI conviction shall be excluded from coverage by the fund. (Resolution 10-1 NMSIF) This means an employee cannot drive a Village vehicle, operate equipment or drive a personal vehicle for purposes of Village business.

b. If the employee has a position that requires a valid New Mexico driver's license and the department director is not able to modify the job so that the employee is not required to drive, the employee may be subject to demotion or termination.

10. Conflicts Of Interest:

a. Beginning or maintaining an outside personal or business relationship which affords present or future financial benefits due to the position of the employee with the Village.

11. Promotion Of Private Business: Promotion of private business within Village work site or while on work time.

12. Acceptance Of Prohibited Gifts: Acceptance of loans or favors given with intention of influencing Village business or accepting gifts or gratuities in excess of the twenty five dollar (\$25.00) limit.

13. Safety Violations:

a. Possession and/or use of weapons, ammunition or explosives without proper authorization on Village property.

b. Failure to comply with Village safety policies, practices and regulations or exposure of another person to same.

c. Failure to wear specified safety equipment.

d. Pranks resulting in physical harm or property damage.

14. Absences/Tardiness:

a. Failure to report to work for three (3) or more consecutive working days without proper notification to management.

b. Habitual or excessive absence or tardiness for work for any reason, including legitimate illness.

c. Leaving assigned work site without proper authorization.

d. Not responding to scheduled on-call/standby requests.

15. Loss Of Certification/Licensure:

a. Loss of certification, licensure, etc., as required to be qualified for the position.

b. Revocation, restriction, expiration, or suspension of driver's license if required to fulfill the duties of the job.

c. Failure to report any of the above to supervisor.

16. Performance:

a. Poor performance, described as failure to perform assigned duties according to prescribed standards.

17. Animals:

a. Village employees are prohibited from bringing any personal pets to work. This includes cats, dogs, birds, etc.

b. Village employees are prohibited from allowing personal pets to ride in Village vehicles.

c. The only exception is if the animal is a service animal for the Village employee for which certification from a nationally accepted/accredited organization of the animal as a service animal is provided to the Village in advance. (Ord. 2019-06, 5-14-2019)

2-9-4: DISCIPLINARY ACTION; REQUIREMENTS:

Disciplinary action of employees shall:

A. Identify elements of an employee's work habits that are contrary to the rules, regulations, policies, and/or procedures of the Village;

B. Identify and measure work performance problems;

C. Provide constructive feedback to the employee;

D. Encourage employees to cooperate and be productive members of the work force;

E. Provide an opportunity to improve an employee's performance and/or work habits;

F. Provide documentation of the supervisor's efforts and communication with the employee regarding his/her performance and work habits; and

G. Ensure that an employee's rights to due process are followed. (Ord. 2019-06, 5-14-2019)

2-9-5: RESPONSIBILITY OF SUPERVISOR:

It shall be the responsibility of the supervisor to:

A. Review the performance of an employee and identify performance deficiencies.

B. Identify employee work habits which are contrary to the policies, procedures, and/or departmental operating procedures.

C. Determine and enforce an appropriate action plan in conjunction with the employee.

D. Forward appropriate proposed disciplinary action to the department director. Department directors may recommend suspension, demotion, or termination.

E. Work closely with the department director and Human Resources Director in all employee relations matters, including evaluations, disciplinary actions and counseling.

F. Ensure that due process rights are provided for an employee. (Ord. 2019-06, 5-14-2019)

2-9-6: TYPES OF DISCIPLINARY ACTION:

A. Guidelines: The following guidelines are to be used when determining the most appropriate and effective type of disciplinary action:

1. Each work habit offense or failure to perform must be viewed and evaluated individually, based on the circumstance.

2. The least severe action should be considered for each offense with the primary focus being resolution of the offense.

3. Continued work habit offenses or poor performance may justify more progressive and stringent discipline, up to and including termination.

4. In determining the best course of disciplinary action to achieve a positive change in behavior, the supervisor shall consider the following factors:

- a. Seriousness and circumstances of the particular offense;
- b. Amount of time that has lapsed since the last offense or disciplinary action;
- c. Counseling efforts to advise an employee of the problem;
- d. Impact on the employee and implications on other employees;
- e. Availability of objective documentation to support the action.

5. If the offense is serious, termination is the appropriate course of action, and the provisions of subsections A1 through A4 of this section do not apply.

B. Acceptable Disciplinary Actions: Acceptable disciplinary actions are verbal warning; written reprimand; suspension; and termination.

1. Verbal Warning:

a. A verbal warning should be given in a timely manner and documented by the immediate supervisor when the supervisor first perceives and confirms unacceptable performance, behaviors or work habits.

b. Verbal warning notices shall:

- (1) Explain why performance or work habits are unacceptable.
- (2) Identify and describe expected outcomes and establish deadlines for completion of expected changes.
- (3) Advise the employee of the consequences of continued undesirable work habits, behavior or performance.

c. A verbal warning should be given as soon as possible after the basis for the verbal warning is identified.

2. Written Reprimand: A written reprimand should be administered and documented by the immediate supervisor. Written reprimands will become a part of an employee's permanent record.

a. When verbal warnings have been unsuccessful and/or corrective action has not been taken by the employee, or for serious offenses for which a verbal warning is deemed insufficient, a written reprimand will be issued using the same format as set forth in subsection B1 of this section.

3. Suspension:

a. The department director or immediate supervisor may recommend the suspension of an employee to the Human Resources Department. Suspensions with or without pay must be approved by the Village Manager.

b. Suspensions constitute disciplinary time away from the job, usually without pay. Suspensions without pay should be considered and initiated when less severe disciplinary actions have been unsuccessful, when an employee fails to make corrective action as identified in previous disciplinary actions, or for serious offenses.

c. Suspensions shall be for a period of no less than the balance of the employee's shift on the working day the action is taken and shall normally not exceed five (5) consecutive working days.

d. Suspensions should be imposed as soon as practicable after the employee's immediate supervisor knows the basis for the suspension.

e. An employee is entitled to a predetermination hearing prior to suspension without pay.

f. Relieving an employee of duties with pay may serve as an interim disciplinary action when termination may be warranted and time to complete a thorough investigation of the offense is needed.

g. In the event an employee is relieved of duties with pay, he/she may be required to call in to work daily. This request may be made by the department director or Village Manager.

4. Termination:

a. A request to terminate an employee may be initiated by a supervisor if:

(1) The violation is a serious offense;

(2) There are repeated offenses and prior disciplinary actions have been unsuccessful, or an employee has failed to take corrective action required in prior disciplinary actions; or

(3) An employee who has a physical or mental impairment that prevents the employee from performing the essential job functions of the employee's position and the employee cannot be reasonably accommodated may be subject to disability termination. Termination must be supported by medical evidence which establishes that the individual is unable to perform the essential job functions. The Village may require an examination or evaluation at its expense performed by a physician of its choice. Failure of an employee to submit to an examination or evaluation may result in termination.

b. Termination is the most serious and severe disciplinary action and should be invoked when other less severe actions have been unsuccessful or conduct constitutes a serious offense.

c. An employee is entitled to a predetermination hearing prior to termination.

C. Predetermination Hearing: When disciplinary action is recommended which may deprive an employee of monies, a predetermination hearing must be held in accordance with the provisions of this chapter. (Ord. 2019-06, 5-14-2019)

2-9-7: PREDETERMINATION HEARING:

A. The right to and interests of due process provide an employee with notice of any intended disciplinary action being contemplated and the reasons supporting the intended action and permit the employee with the opportunity to be heard before the disciplinary action is finally taken, if ever.

B. The Village shall conduct a predetermination hearing for any employee, excluding probationary employees, unless waived in writing by the involved employee. The purpose of the predetermination hearing is to permit the involved employee the opportunity to respond to any contemplated disciplinary action against him/her, with prior and sufficient notice of the contemplated action, which may result in the loss of monies to the employee, including: demotion (unless voluntary), suspension without pay, and termination.

C. Prior to any involuntary demotion, suspension or termination of employment action, except of a probationary employee, the affected employee shall be given a written notice of the contemplated action and the reasons for the contemplated action.

D. The Human Resources Director shall schedule a predetermination hearing no earlier than three (3) days after the affected employee receives the notice of contemplated action. The predetermination hearing shall be conducted by the director of the department in which the affected employee is employed; the immediate supervisor and any reviewing supervisor shall be present at the predetermination hearing. The affected employee may be accompanied by a representative of his/her choosing at the predetermination hearing.

E. An affected employee may submit a response to the notice of contemplated action in writing before or at the predetermination hearing.

F. The purpose of the predetermination hearing is to give the employee the opportunity to respond to the intended disciplinary action and the reasons provided in the notice to support the action. The predetermination hearing shall be conducted in an informal manner, not adhering to formal rules of evidence or procedure. The predetermination hearing shall not be recorded by audio or visual equipment nor any attempt at verbatim recording be made.

G. After the predetermination hearing has been conducted, the department director shall recommend to the Village Manager what action should be taken with respect to the affected employee. All disciplinary actions taken against any employee, entitled to a predetermination hearing, shall be issued, upon the recommendation of the applicable department director, after review by and approval of the Village Manager. (Ord. 2019-06, 5-14-2019)

2-9-8: POST-DISCIPLINARY ACTION REVIEW:

If an employee entitled to a predetermination hearing is suspended, demoted or terminated, he/she may seek further review by filing a notice of review with the Village Manager within five (5) business days after the date of the disciplinary action. The notice of review must be in writing seeking review of the specific disciplinary action taken.

Within five (5) business days of the filing of the notice of review, the Village Manager shall appoint an impartial, third party Hearing Officer to conduct a hearing on the decision being appealed.

Within five (5) business days of appointment, the Hearing Officer shall issue a scheduling order setting the matter for hearing and providing other deadlines as may be necessary for preparation and/or the conduct of the hearing.

Post-disciplinary review hearings shall be held within forty five (45) days after the filing of the notice of review and shall be conducted under the general procedural law applicable to administrative proceedings and shall apply the Rules of Civil Procedure for District Courts in New Mexico and the New Mexico Rules of Evidence, only to the extent necessary for adequate discovery to occur and a complete record to be made. The affected employee may be represented by counsel or another person of his/her choice and may call as witnesses any persons, including employees of the Village, with personal knowledge of matters relevant to the disciplinary action taken.

The time limits set forth in this section may be extended upon mutual agreement of the Village, Hearing Officer and affected employee.

The hearing shall be conducted by the Hearing Officer during normal working hours, if possible. The hearing may be tape recorded.

Within ten (10) days after the hearing, the Hearing Officer shall submit findings of fact and conclusions of law and a recommended decision to the Village Council for its review and decision. When deliberating, the Village Council shall not hear any presentations or evidence aside from the record and the recommendations of the Hearing Officer.

Within thirty (30) days of receiving the recommendations of the Hearing Officer, with respect to the post-disciplinary review process, the Village Council shall issue its decision, either accepting or reversing the Hearing Officer's recommended decision, modifying the Hearing Officer's decision or remanding the matter to the Hearing Officer for further hearing or more detailed findings, conclusions or recommended decision, and sending copies to the involved employee, his/her representative and the Village Manager.

The decision of the Village Council is the final step in the post-disciplinary review process.

All information and documentation involved in the post-disciplinary review process shall be considered and treated by all involved as confidential to the extent permitted by law. (Ord. 2019-06, 5-14-2019)

2-9-9: GRIEVANCE DEFINED:

A grievance is a claim or dispute by a non-probationary employee with respect to the interpretation, meaning, or application of the Village's written personnel policies or written personnel procedures. A grievance may not be filed to challenge a termination, layoff, change in policies and/or procedures, demotion, reclassification, performance evaluation, transfer, promotion, or suspension. (Ord. 2019-06, 5-14-2019)

2-9-10: AUTHORITY TO FILE A GRIEVANCE:

An employee who believes that he/she has been treated unfairly in job assignments, in being given opportunities for advancement, in receiving disciplinary action (except termination or suspension, which is covered under the predetermination process) or in other aspects of their employment with the Village may file a grievance. The following shall apply:

A. Any problem or situation which may result in a grievance must first be discussed with the employee's supervisor to determine if the problem or situation can be resolved informally. This discussion must occur within ten (10) working days of the occurrence of the problem or situation which forms the basis of the grievance.

B. If the problem or situation is not resolved by informal discussion between the employee and his/her supervisor, the employee may file a formal grievance, using the appropriate form, within ten (10) working days after the informal discussion with his/her supervisor. Within ten (10) working days after the filing of the grievance, the employee shall meet with the director of the department in which the employee is employed to discuss the grievance filed. If still unresolved for the employee, within ten (10) working days after the meeting with the applicable department director, the employee shall meet with the Village Manager or his/her designee to discuss the pending grievance.

C. An employee eligible to file a grievance, may, after satisfying all other avenues of resolution set forth in this section, request a review by the Village Council of the decision of the Village Manager on the grievance filed by the employee. (Ord. 2019-06, 5-14-2019)

2-9-11: VILLAGE COUNCIL GRIEVANCE REVIEW:

A. The Village Council shall consider the record available to it from the file, the Human Resources Department and the Village Manager. When deliberating on a grievance, the Village Council shall not hear any presentations or evidence aside from the record and the recommendations of the Village Manager.

B. Within thirty (30) days of receiving the recommendations of the Village Manager with respect to the grievance, the Village Council shall issue its decision, either accepting or reversing the Village Manager's recommended decision, modifying the Village Manager's decision or remanding the matter to the Village Manager for further hearing or a more detailed report.

C. The decision of the Village Council is the final step in the administrative grievance process.

D. All information and documentation involved in the grievance process shall be considered and treated by all involved as confidential to the extent permitted by law. (Ord. 2019-06, 5-14-2019)

2-9-12: ADA GRIEVANCES:

A. Internal Grievance Procedure: The Village has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing title II of the Americans With Disabilities Act (ADA). Title II states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination" in programs or activities sponsored by a public entity.

B. Complaints Filed:

1. Complaints alleging violations of the ADA should be addressed to the Human Resources Department, Village of Angel Fire, P.O. Box 610, Angel Fire, NM 87710, who has been designated to coordinate ADA compliance efforts.

2. The complaint should be filed in writing, contain the name and address of the person filing it, and briefly describe the violation of the ADA being alleged.

3. The complaint should be filed within five (5) business days after the complainant becomes aware of the alleged violation. (Processing of violations which occurred before this grievance procedure was adopted will be considered on a case by case basis.)

C. Investigation Of Complaint: An investigation, as may be appropriate, shall follow the filing of a complaint. The investigation shall be conducted by the Human Resources Department. Informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint will be conducted.

D. Decisions Of Village: A written determination as to the validity of the complaint and a description of its resolution, if any, shall be issued by the Village Manager and a copy forwarded to the complainant no later than fourteen (14) days after its filing.

E. Records Kept: The ADA Coordinator/Human Resources Department shall maintain all files and records relating to ADA complaints filed. (Ord. 2019-06, 5-14-2019)

CHAPTER 10

DRUG FREE WORKPLACE

SECTION:

2-10-1: Purpose

2-10-2: Policy

2-10-3: Notice To Employees

2-10-4: Prohibited Activities

2-10-5: Working Under The Influence

2-10-6: Post-Accident Testing

2-10-7: Indictment Or Conviction For Conduct Involving Alcohol, Drugs Or Controlled Substances

2-10-1: PURPOSE:

The Village of Angel Fire is strongly committed to the health, safety and welfare of its employees and constituents and has developed this policy to prevent the use and/or abuse of alcohol, drugs or controlled substances that affect job performance and safety both on and off the job. Employees who believe they have a drug and/or alcohol problem are expected to seek professional help. The Village has contracted with the Solutions Group employee assistance program for this purpose, and others. Information regarding this program is on file in the Village as exhibit A. (Ord. 2019-06, 5-14-2019)

2-10-2: POLICY:

Village policy strictly prohibits the use of illegal substances or drugs as well as the unauthorized sale, purchase, possession, distribution, or manufacture of such drugs and substances or the use of alcohol by an employee in the workplace. For individuals who perform safety sensitive functions, this prohibition extends beyond the period that the individual is actually performing the safety sensitive function to include any period of time in which the individual is available to perform such function, including while an employee is scheduled as on-call or standby.

This policy applies to applicants and employees conducting Village business or otherwise representing the Village at any time or place, or who are in any vehicle being used for or to support Village services.

Employees are prohibited from entering Village owned, managed or leased property or attempting to work while under the

influence of drugs and/or alcohol. The Village further prohibits the abuse and/or misuse of over the counter and/or prescription drugs in an amount or in a manner or for any reason for which they were not intended. (Ord. 2019-06, 5-14-2019)

2-10-3: NOTICE TO EMPLOYEES:

A. Notice: The Village will give a general onetime notice to all employees that it is a condition of employment to refrain from using drugs on or off the job. Employees found to be in violation of this policy will be subject to disciplinary action, up to and including termination.

B. Mandatory Testing Policy: The Village reserves the right to implement a mandatory drug and alcohol testing policy which will cover all current employees and applicants for employment, and hereby gives notice to all employees of its intent to do so. A copy of a medical marijuana prescription or a medical use card must be provided to the Human Resources Department, to be placed in the employee's permanent file. (Ord. 2019-06, 5-14-2019)

2-10-4: PROHIBITED ACTIVITIES:

The following activities are prohibited while an employee is on Village business or otherwise engaged in Village business:

- A. Personal possession (e.g., on the person, in a desk, or locker) of illegal drugs and/or alcohol on Village property.
- B. The manufacture, unauthorized possession, use, sale, distribution, receipt or transportation of illegal drugs and/or any controlled substance.
- C. Working while under the influence of alcohol or a controlled and/or illegal drug or substance in any manner, whether consumed outside of or during working hours. This includes being impaired by lawfully prescribed drugs that have been abused or misused.
- D. Employees on-call or on standby status are prohibited from using alcohol.
- E. Public safety employees or those who drive vehicles or operate equipment or perform safety sensitive functions must refrain from using alcohol for a minimum of eight (8) hours prior to being on call/standby or reporting for work. (Ord. 2019-06, 5-14-2019)

2-10-5: WORKING UNDER THE INFLUENCE:

Managers, supervisors and coworkers who suspect or have knowledge that an employee is working under the influence of drugs and/or alcohol and who fail to report such suspicions or knowledge are in violation of this policy.

An employee who is perceived to be under the influence of drugs and/or alcohol will be removed immediately from the workplace and tested "for cause" based on the established guidelines in this title. Employees who test positive for drugs in a reasonable cause or suspicion test or for any controlled substance which cannot be substantiated as a currently prescribed and properly used medication will be terminated. In certain limited situations employees may be referred to counseling, and/or subjected to disciplinary action. The determination of what action is appropriate in each case rests solely with the Village Manager.

Factors which could establish cause/reasonable suspicion include, but are not limited to:

Scents associated with alcohol consumption and/or residual odor peculiar to some illegal or controlled substance on the employee's breath, clothing or in the work area. Employees whose alcohol concentration is 0.03 or greater may be subject to disciplinary action, up to and including termination;

Observed impairment of physical ability or mental judgment capability;

Unusual or erratic behavior, rapid mood swings, suspicious behavior, aggressive behavior;

Changes in work performance;

Unexplained or frequent absenteeism;

Noticeable personality changes;

Disorientation or confusion;

Observed drug or alcohol use;

Slurred speech, unsteady gait, glassy eyed appearance;

Pattern or trend of injuries or accidents; and/or

A report of off duty or off premises drug or alcohol related incident which is viewed to reflect negatively on the Village. (Ord. 2019-06, 5-14-2019)

2-10-6: POST-ACCIDENT TESTING:

In situations where post-accident testing is required, the policies and guidelines set forth in U.S. Code title 49, Transportation, subsection 382.303, post-accident testing will be followed. If testing is to occur, the Human Resources Director and/or the Village Manager must be notified in advance of the testing.

Employees will be tested for drugs and alcohol in post-accident situations when any vehicle or piece of equipment is involved; and the work related accident results in a human fatality and/or bodily injury with immediate medical treatment

away from the scene and/or disabling damage to any motor vehicle requiring tow away and/or significant private or public property damage.

When required or directed, post-accident drug tests must be performed as soon as practicable and within thirty two (32) hours of the accident and testing for alcohol must be performed within two (2) to eight (8) hours following an accident. Any employee who is seriously injured and is unable to provide a specimen at the time of the accident will be required to provide authorization for risk management to view their records solely for the purpose of determining the presence of drugs or alcohol at the time of the accident. An employee who is subject to post- accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing. Refusal to submit to required or directed post-accident testing will result in disciplinary action, up to and including termination. (Ord. 2019-06, 5-14-2019)

2-10-7: INDICTMENT OR CONVICTION FOR CONDUCT INVOLVING ALCOHOL, DRUGS OR CONTROLLED SUBSTANCES:

An incident involving indictment or conviction on or off work time is viewed as reflecting negatively on the Village's reputation and any employee who engages in such conduct will be subject to disciplinary action, up to and including termination.

An employee convicted of violating any criminal drug statute under State or Federal law or who pleads guilty or nolo contendere to such charges must inform their department director or the Human Resource Director within five (5) days of the conviction or plea to such charges. This also includes indictment or conviction for criminal offenses related to alcohol use.

Failure to notify an appropriate Village official will result in disciplinary action, up to and including termination. (Ord. 2019-06, 5-14-2019)

CHAPTER 11

CATASTROPHIC LEAVE PROGRAM

SECTION:

2-11-1: Policy

2-11-2: Definitions

2-11-3: Eligibility And Limitations

2-11-4: Procedures

2-11-1: POLICY:

The Catastrophic Leave Program permits leave for an employee experiencing a catastrophic illness, injury or event, or to care for a family or household member who experiences a catastrophic illness or injury. Nothing in this program changes current policy and practice regarding paid time off or other defined leave benefits. (Ord. 2019-06, 5-14-2019)

2-11-2: DEFINITIONS:

CATASTROPHIC EVENT: A catastrophic event is defined as follows:

- A. The death of a family or household member; or
- B. A catastrophic casualty loss suffered due to a terrorist attack, fire, or natural disaster.
- C. In the case of bereavement leave, an additional forty (40) hours of catastrophic leave may be used by employees having a minimum of forty (40) hours of catastrophic leave available.

CATASTROPHIC ILLNESS OR INJURY: A catastrophic illness or injury is defined as a serious debilitating illness, injury, impairment, or physical or mental condition that is present for a minimum of seven (7) calendar days, and involves:

- A. A period of illness or injury or treatment requiring inpatient care (e.g., an overnight stay) in a hospital, hospice, or residential medical care facility; or
- B. A period of illness or injury requiring absence of more than seven (7) calendar days from work, and continuing treatment by (or under the supervision of) a licensed health care provider;
- C. A period of illness or injury (or treatment) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
- D. A period of illness or injury that is long-term due to a condition for which treatment may be ineffective (e.g., stroke, terminal disease, etc.); or
- E. An absence to receive multiple treatments (including any period of recovery therefrom) either for restorative surgery after an accident or other injury, or for a chronic condition, i.e., cancer or kidney disease.

FAMILY OR HOUSEHOLD MEMBER: Family or household member includes an employee's spouse, children, father, mother, stepparents, stepchildren, brother, sister, grandparent, grandchild, or other relative or household member for whom the employee has custodial responsibility. Step-relative, in-laws, and relatives by adoption are included on the same basis as blood relatives. (Ord. 2019-06, 5-14-2019)

2-11-3: ELIGIBILITY AND LIMITATIONS:

A. Employees With Catastrophic Leave Balances: Employees employed prior to July 1, 2013 and who possess sick leave balance of forty (40) hours or greater and who choose to convert a minimum of forty (40) sick leave hours to catastrophic leave at the time such conversion is offered are eligible to utilize their catastrophic leave at the one and only time period conversion is offered (beginning on July 3, 2013 and ending on July 10, 2013) if they:

1. Are a regular full-time or part-time employee eligible for PTO and other paid leave benefits; and
2. Have submitted all required leave request forms requested by the Village and have an approved leave of absence in relation to the catastrophic illness, injury or event.

B. Employees Without Catastrophic Leave Balances: Eligible employees without catastrophic leave balances are eligible to receive catastrophic leave donations from employees with catastrophic leave balances. An eligible employee is an employee who:

1. Is a regular full-time or part-time employee eligible for PTO and other paid leave benefits and has completed the probationary period; and
2. Has exhausted all available Village of Angel Fire paid leave accruals and is not receiving disability or workers' compensation benefits; and
3. Requests and receives donated leave due to catastrophic illness, injury or event prior to the exhaustion of other leave.

C. Donations On A Per Pay Period Basis: Catastrophic leave donations by an employee to another Village employee will only be accepted on a per pay period basis for the number of hours the employee needs for that pay period.

D. May Not Be Converted: Catastrophic leave, once chosen, may not be converted to PTO.

E. Catastrophic Leave Balances: There will be no payout of remaining catastrophic leave balances upon termination of employment.

F. Donations Voluntary: Donations of catastrophic leave by employees are strictly on a voluntary basis.

G. Donations Not Tax Deductible: Donations of catastrophic leave are not tax deductible. (Ord. 2019-06, 5-14-2019)

2-11-4: PROCEDURES:

A. Requesting Catastrophic Leave:

1. An eligible employee must complete the Village Leave Form noting the word "Catastrophic" in the space labeled "Other"; and
2. The eligible employee must provide all verification documents requested by the Village as to the nature and extent of the catastrophic illness, injury, or event.

B. Administration: Administration of the program will be coordinated by the Village Manager, Human Resources staff and Payroll staff. (Ord. 2019-06, 5-14-2019)

TITLE 3
BUSINESS AND TAXATION REGULATIONS

CHAPTER 1
BUSINESS REGISTRATION

SECTION:

3-1-1: Short Title

3-1-2: Definition

3-1-3: Application To Do Business

3-1-4: Business Registration Fee

3-1-5: Renewal Of Registration

3-1-6: Records Kept

3-1-7: Enforcement

3-1-1: SHORT TITLE:

This chapter may be cited as the *BUSINESS REGISTRATION ORDINANCE*. (Ord. 1986-08, 11-6-1986)

3-1-2: DEFINITION:

For the purposes of this chapter, "business" means an activity or enterprise for financial gain, benefit, advantage or livelihood. (Ord. 1986-08, 11-6-1986)

3-1-3: APPLICATION TO DO BUSINESS:

A. Any person proposing to engage in business within the village limits shall apply for and pay a business registration fee for each outlet, branch or location within the village limits prior to engaging in business.

B. Any person filing an application for issuance or renewal of any business registration shall include in the application his/her current revenue division taxpayer identification number or evidence of application for a current revenue division taxpayer identification number. (Ord. 2000-01, 2-4-2000)

3-1-4: BUSINESS REGISTRATION FEE:

A. Fee Established: There is imposed on each place of business conducted in the village a business registration fee of thirty five dollars (\$35.00). The fee is imposed pursuant to New Mexico Statutes Annotated section 3-38-3 as it now exists or is amended and shall be known as the "business registration fee".

B. Proration: The business registration fee will be prorated to a fee of twenty five dollars (\$25.00) for new businesses applying during the last quarter of the year.

C. Exemption From Fee: No business registration fee shall be imposed on any business which is licensed pursuant to New Mexico Statutes Annotated section 3-38-1. (Ord. 2000-01, 2-4-2000)

3-1-5: RENEWAL OF REGISTRATION:

A. Time For Renewal: Between January 1 and five o'clock (5:00) P.M. on March 16 of each year, any person with a place of business in the village and subject to this chapter shall apply for renewal of business registration with the village clerk.

B. Failure To Renew; Late Fee: Any person who fails to renew the business registration and pay the fee by five o'clock (5:00) P.M. on March 16 of any year shall be charged an additional late fee of ten dollars (\$10.00) and shall not be registered until the original fee and late fee are paid. (Ord. 2000-01, 2-4-2000)

3-1-6: RECORDS KEPT:

The village clerk shall keep a record of all businesses registered, including the names of the owners of the businesses, the date issued, the amount paid and other relevant information. (Ord. 1986-08, 11-6-1986)

3-1-7: ENFORCEMENT:

The village may enforce payment of the business registration fee by filing a charge of violation of this chapter in municipal court, as well as by any of the other means provided in New Mexico Statutes Annotated section 3-38-5. (Ord. 2000-01, 2-4-2000; amd. 2003 Code)

CHAPTER 2

GROSS RECEIPTS TAXES

ARTICLE A. MUNICIPAL GROSS RECEIPTS TAX

SECTION:

3-2A-1: Tax Imposed

3-2A-2: General Provisions; Act Adopted

3-2A-3: Exemptions From Tax

3-2A-4: Disposition Of Revenues

3-2A-5: Effective Date Of Tax

3-2A-1: TAX IMPOSED:

There is imposed on any person engaging in business in the village for the privilege of engaging in business in the village, an excise tax equal to one and one-fourth percent (1 1/4%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico gross receipts and compensating tax act ¹ as it now exists, or as it may be amended. The tax imposed under this article is pursuant to the New Mexico municipal gross receipts tax act as it now exists or as it may be amended and shall be known as the municipal gross receipts tax. (Ord. 1986-03, 7-18-1986)

1. NMSA §7-9-1 et seq.

3-2A-2: GENERAL PROVISIONS; ACT ADOPTED:

This article hereby adopts by reference all definitions, exemptions and deductions contained in the gross receipts and

compensating tax act as it now exists or as it may be amended. (Ord. 1986-03, 7-18-1986)

3-2A-3: EXEMPTIONS FROM TAX:

No municipal gross receipts tax shall be imposed on the gross receipts arising from:

- A. Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the village to another point outside the village; or
- B. A business located outside the boundaries of the village on land owned by the village for which a gross receipts tax distribution is made pursuant to New Mexico Statutes Annotated section 7-1-6.4. (Ord. 1986-03, 7-18-1986; amd. 2003 Code)

3-2A-4: DISPOSITION OF REVENUES:

Revenue from the municipal gross receipts tax will be placed in the municipal general fund. (Ord. 1986-03, 7-18-1986)

3-2A-5: EFFECTIVE DATE OF TAX:

The effective date of the municipal gross receipts tax shall be January 1, 1987. (Ord. 1986-03, 7-18-1986)



ARTICLE B. MUNICIPAL ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX

SECTION:

3-2B-1: Tax Imposed

3-2B-2: General Provisions; Act Adopted

3-2B-3: Exemptions From Tax

3-2B-4: Disposition Of Revenues

3-2B-5: Effective Date Of Tax

3-2B-1: TAX IMPOSED:

There is imposed on any person engaging in business in the village for the privilege of engaging in business in the village an excise tax equal to one-sixteenth of one percent (1/16%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico gross receipts and compensating tax act ¹ as it now exists or as it may be amended. The tax imposed under this article is pursuant to the municipal local option gross receipts taxes act ² as it now exists or as it may be amended and shall be known as the "municipal environmental services gross receipts tax". (Ord. 1996-03, 4-4-1996)

1. NMSA §7-9-1 et seq.
2. NMSA §7-19D-1 et seq.

3-2B-2: GENERAL PROVISIONS; ACT ADOPTED:

This article hereby adopts by reference all definitions, exemptions and deductions contained in the gross receipts and compensating tax act as it now exists or as it may be amended. (Ord. 1996-03, 4-4-1996)

3-2B-3: EXEMPTIONS FROM TAX:

No municipal environmental services gross receipts tax shall be imposed on the gross receipts arising from:

- A. A business located outside the boundaries of the village on land owned by the village for which a gross receipts tax distribution is made pursuant to New Mexico Statutes Annotated section 7-1-6.4. (Ord. 1996-03, 4-4-1996; amd. 2003 Code)
- B. Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the village to another point outside the village. (2003 Code)

3-2B-4: DISPOSITION OF REVENUES:

Revenue from the municipal environmental services gross receipts tax will be used for the acquisition, construction, operation and maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities. (Ord. 1996-03, 4-4-1996)

3-2B-5: EFFECTIVE DATE OF TAX:

The effective date of the municipal environmental services gross receipts tax shall be July 1, 1996. (Ord. 1996-03, 4-4-1996)



ARTICLE C. MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX

SECTION:

3-2C-1: Tax Imposed

3-2C-2: General Provisions; Act Adopted

3-2C-3: Exemptions From Tax

3-2C-4: Disposition Of Revenues

3-2C-5: Effective Date Of Tax

3-2C-1: TAX IMPOSED:

There is imposed on any person engaging in business in the village for the privilege of engaging in business in the village an excise tax equal to three-eighths of one percent (3/8%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico gross receipts and compensating tax act ¹ as it now exists or as it may be amended.

The tax imposed under this article is pursuant to the municipal local option gross receipts taxes act ² as it now exists or as it may be amended and shall be known as the "municipal infrastructure gross receipts tax". (Ord. 1998-10, 8-20-1998; amd. Ord. 2001-11, 10-18-2001)

1. NMSA §7-9-1 et seq.

2. NMSA §7-19D-1 et seq.

3-2C-2: GENERAL PROVISIONS; ACT ADOPTED:

This article hereby adopts by reference all definitions, exemptions and deductions contained in the gross receipts and compensating tax act as it now exists or as it may be amended. (Ord. 1998-10, 8-20-1998; amd. Ord. 2001-11, 10-18-2001)

3-2C-3: EXEMPTIONS FROM TAX:

No municipal infrastructure gross receipts tax shall be imposed on the gross receipts arising from:

A. Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the village to another point outside the village;

B. A business located outside the boundaries of the village on land owned by the village for which a state gross receipts tax distribution is made pursuant to New Mexico Statutes Annotated section 7-1-6.4A3; or

C. Direct broadcast satellite services. (Ord. 1998-10, 8-20-1998; amd. Ord. 2001-11, 10-18-2001; 2003 Code)

3-2C-4: DISPOSITION OF REVENUES:

Revenue from the municipal infrastructure gross receipts tax will be used for the following purposes:

A. One-fourth of one percent (1/4%) for repairs and maintenance on village streets.

B. One-eighth of one percent (1/8%) for public safety building. (Ord. 1998-10, 8-20-1998; amd. Ord. 2001-11, 10-18-2001)

3-2C-5: EFFECTIVE DATE OF TAX:

The effective date of the municipal infrastructure gross receipts taxes shall be July 1, 1999, for the one-fourth of one percent (1/4%) tax and January 1, 2002, for the one-eighth of one percent (1/8%) tax. (Ord. 1998-10, 8-20-1998; amd. Ord. 2001-11, 10-18-2001; 2003 Code)

ARTICLE D. MUNICIPAL CAPITAL OUTLAY GROSS RECEIPTS TAX

SECTION:

3-2D-1: Tax Imposed

3-2D-2: General Provisions; Act Adopted

3-2D-3: Exemptions From Tax

3-2D-4: Disposition Of Revenues

3-2D-5: Effective Date Of Tax

3-2D-1: TAX IMPOSED:

There is imposed on any person engaging in business in the village for the privilege of engaging in the business in the village an excise tax equal to one-fourth of one percent (1/4%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico gross receipts and compensating tax act ¹ as it now exists or as it may be amended.

The tax imposed under this article is pursuant to the municipal local option gross receipts taxes act ² as it now exists or as it may be amended and shall be known as the *MUNICIPAL CAPITAL OUTLAY GROSS RECEIPTS TAX*. (Ord. 2001-12, 10-18-2001)

1. NMSA §7-9-1 et seq.

2. NMSA §7-19D-1 et seq.

3-2D-2: GENERAL PROVISIONS; ACT ADOPTED:

This article hereby adopts by reference all definitions, exemptions and deductions contained in the gross receipts and compensating tax act as it now exists or as it may be amended. (Ord. 2001-12, 10-18-2001)

3-2D-3: EXEMPTIONS FROM TAX:

No municipal capital outlay gross receipts tax shall be imposed on the gross receipts rising from:

- A. Transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the village to another point outside the village. (Ord. 2001-12, 10-18-2001)
- B. A business located outside the boundaries of the village on land owned by the village for which a state gross receipts tax distribution is made pursuant to New Mexico Statutes Annotated section 7-1-6.4A3; or (Ord. 2001-12, 10-18-2001; amd. 2003 Code)
- C. Direct broadcast satellite services. (Ord. 2001-12, 10-18-2001)

3-2D-4: DISPOSITION OF REVENUES:

Revenue from the municipal capital outlay gross receipts tax will be used for improvements and maintenance of village roads. (Ord. 2001-12, 10-18-2001; amd. 2003 Code)

3-2D-5: EFFECTIVE DATE OF TAX:

The effective date of the municipal capital outlay gross receipts tax shall be January 1, 2002. (Ord. 2001-12, 10-18-2001; amd. 2003 Code)

CHAPTER 3

LODGERS' TAX

SECTION:

3-3-1: Title

3-3-2: Purpose

3-3-3: Definitions

3-3-4: Tax Imposed

3-3-5: Licensing Requirements

3-3-6: Exemptions From Tax

3-3-7: Collection Of Tax; Reporting Procedures

3-3-8: Records Kept

3-3-9: Administration Of Monies Collected

3-3-10: Eligible Uses Of Proceeds

3-3-11: Financial Reporting

3-3-12: Vendor Audits

3-3-13: Confidentiality Of Return And Audit

3-3-14: Refunds And Credits

3-3-15: Failure To Make Return

3-3-16: Enforcement And Penalties

3-3-1: TITLE:

This chapter shall be known as and cited as the *LODGERS' TAX ORDINANCE*. (Ord. 1996-12, 10-10-1996)

3-3-2: PURPOSE:

The purpose of this chapter is to impose a tax which will be borne by persons using commercial lodging accommodations, which tax will provide revenues for the purpose of advertising, publicizing and promoting tourist related attractions, facilities and events, and acquiring, establishing and operating tourist related facilities, attractions or transportation systems, as authorized in section 3-3-10 of this chapter. (Ord. 1996-12, 10-10-1996)

3-3-3: DEFINITIONS:

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

BOARD: The advisory board established herein to make recommendations to the governing body, keep minutes of its proceedings and submit its recommendations, correspondence and other pertinent documents to the governing body.

GROSS TAXABLE RENT: The total amount of rent paid for lodging, not including the state gross receipts tax or local sales taxes.

LODGING: The transaction of furnishing rooms or other accommodations by a vendor to a vendee who, for rent, uses,

possesses or has the right to use or possess any room or rooms or other units of accommodations in or at a taxable premises.

LODGINGS: The rooms or other accommodations furnished by a vendor to a vendee by a taxable service of lodgings.

OCCUPANCY TAX: The tax on lodging authorized by the lodgers' tax act¹

PERSON: A corporation, firm, other body corporate, partnership, association or individual. "Person" includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity, but does not include the United States of America, the state of New Mexico, any corporation, department, instrumentality or agency of the federal government or the state government, or any political subdivision of the state.

RENT: The consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to an occupancy tax authorized in the lodgers' tax act.

TAXABLE PREMISES: A hotel, apartment, apartment hotel, apartment house, lodge, lodging house, rooming house, motor hotel, guesthouse, guest ranch, ranch resort, guest resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp, cabin or other premises for lodging.

TOURIST: A person who travels for the purpose of business, pleasure or culture to a municipality or county imposing an occupancy tax.

TOURIST RELATED EVENTS: Events that are planned for, promoted to and attended by tourists.

TOURIST RELATED FACILITIES AND ATTRACTIONS: Facilities and attractions that are intended to be used by or visited by tourists.

TOURIST RELATED TRANSPORTATION SYSTEMS: Transportation systems that provide transportation for tourists to and from tourist related facilities, attractions and events.

VENDEE: A natural person to whom lodgings are furnished in the exercise of the taxable service of lodging.

VENDOR: A person furnishing lodgings in the exercise of the taxable service of lodging.

VILLAGE CLERK: The village clerk of Angel Fire, New Mexico. (Ord. 1996-12, 10-10-1996)

Notes

¹ 1. NMSA § 3-38-13 et seq.1.

3-3-4: TAX IMPOSED:

There is hereby imposed an occupancy tax of five percent (5%) of the gross taxable rent for lodging within the village paid to vendors. (Ord. 1996-12, 10-10-1996)

3-3-5: LICENSING REQUIREMENTS:

A. License Required: No vendor shall engage in the business of providing lodging in the village who has first not obtained a license as provided in this section.

B. Application For License: Applicants for a vendor's license shall submit an application to the village clerk stating:

1. The name of the vendor, including identification of any "person", as defined in this chapter, who owns or operates, or both owns and operates a place of lodging and the name or trade names under which the vendor proposes to do business and the post office address thereof.

2. A description of the facilities, including the number of rooms and the usual schedule of rates therefor.

3. A description of other facilities provided by the vendor or others to users of the lodgings such as restaurant, bar, cleaning, laundry, courtesy car or others, and a statement identifying the license issued, to whom issued, the authority issuing, and the period for which issued. If applicable, also the identification number provided by the bureau of revenue of the state.

4. The nature of the business of the vendor and to what extent, if any, his business is exempt from the lodgers' tax.

5. Other information reasonably necessary to effect a determination of eligibility for such license.

C. Grant Of License: The village clerk shall review applications for license within ten (10) days of receipt thereof and grant the license in due course if the applicant is doing business subject to the lodgers' tax.

D. Appeal:

1. Filing Appeal: An applicant who is dissatisfied with the decision of the village clerk may appeal the decision to the governing body by written notice to the village clerk of such appeal to be made within fifteen (15) days of the date of the decision of the village clerk on the application.

2. Hearing: The matter shall be referred to the governing body for hearing at a regular or special meeting in the usual

course of business.

3. Action By Governing Body: The decision of the governing body made thereof shall be expressed in writing and be communicated in the same manner as the decision of the village clerk is transmitted. The action of the governing body shall be deemed final.

4. Issuance Of License; Notice Of Other Decisions: If the governing body finds for the applicant, the village clerk shall issue the appropriate license or other notice conforming to the decision made by the governing body. (Ord. 1996-12, 10-10-1996)

3-3-6: EXEMPTIONS FROM TAX:

The occupancy tax shall not apply:

A. If a vendee:

1. Has been a permanent resident of the taxable premises for a period of at least thirty (30) consecutive days; or
2. Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least thirty (30) consecutive days.

B. If the rent paid by the vendee is less than two dollars (\$2.00) a day;

C. To lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;

D. To lodging accommodations at religious, charitable, educational or philanthropic institutions, including, without limitation, such accommodations at summer camps operated by such institutions;

E. To clinics, hospitals or other medical facilities;

F. To privately owned and operated convalescent homes, or homes for the aged, infirm, indigent or chronically ill; or (Ord. 1996-12, 10-10-1996)

G. If the vendor does not offer at least three (3) rooms within or attached to a taxable premises for lodging or at least three (3) other premises for lodging or a combination of these within the taxing jurisdiction. (2003 Code)

3-3-7: COLLECTION OF TAX; REPORTING PROCEDURES:

A. Collection Required: Every vendor providing lodgings shall collect the tax thereon on behalf of the village and shall act as a trustee therefor.

B. Separate Charge From Rent: The tax shall be collected from vendees and shall be charged separately from the rent fixed by the vendor for the lodgings.

C. Liability Of Vendor: Each vendor licensed under this chapter shall be liable to the village for the tax provided herein on the rent paid for lodging at his respective place of business.

D. Return Filed: Each vendor shall make a report by the twenty fifth day of each month, on forms provided by the village clerk, of the receipts for lodging in the preceding calendar month, and shall submit the proceeds of the lodgers' tax to the village and include sufficient information to enable the village to audit the reports and shall be verified on oath by the vendor. (Ord. 1996-12, 10-10-1996)

3-3-8: RECORDS KEPT:

The vendor shall maintain adequate records of facilities subject to the tax and of proceeds received for the use thereof. Such records shall be maintained in the village, and shall be open to inspection by the village during reasonable hours and shall be retained for three (3) years. (Ord. 1996-12, 10-10-1996)

3-3-9: ADMINISTRATION OF MONIES COLLECTED:

A. Administrative Authority: The governing body shall administer the lodgers' tax monies collected.

B. Advisory Board: The mayor shall appoint a five (5) member advisory board that consists of two (2) members who are owners or operators of lodgings subject to the occupancy tax within the village, two (2) members who are owners or operators of industries located within the village that primarily provide services or products to tourists, and one member who is a resident of the village and represents the general public. The board shall advise the governing body on expenditure of funds authorized under section 3-3-10 of this chapter for advertising, publicizing and promoting tourist attractions and facilities in the village and surrounding area. (Ord. 1996-12, 10-10-1996)

3-3-10: ELIGIBLE USES OF PROCEEDS:

Subject to the limitations contained in New Mexico Statutes Annotated section 3-38-15, the village may use the proceeds from the tax to defray the costs of:

A. Collecting and otherwise administering the tax, including the performance of audits required by the lodgers' tax act pursuant to guidelines issued by the state department of finance and administration; (Ord. 1996-12, 10-10-1996; amd. 2003 Code)

B. Establishing, operating, purchasing, constructing, otherwise acquiring, reconstructing, extending, improving, equipping, furnishing or acquiring real property or any interest in real property for the site or grounds for tourist related facilities, attractions or transportation systems of the village, the county in which the village is located or the county;

C. The principal of and interest on any prior redemption premiums due in connection with and any other charges pertaining to revenue bonds authorized by New Mexico Statutes Annotated section 3-38-23 or section 3-38-24;

D. Advertising, publicizing and promoting tourist related attractions, facilities and events of the village or county and tourist facilities or attractions within the area;

E. Providing police and fire protection and sanitation service for tourist related events, facilities and attractions located in the village; or

F. Any combination of the foregoing purposes or transactions stated in this section, but for no other municipal purpose. (Ord. 1996-12, 10-10-1996)

3-3-11: FINANCIAL REPORTING:

A. The governing body shall furnish the advisory board that portion of any proposed budget, report or audit filed or received by the governing body pursuant to either New Mexico Statutes Annotated chapter 6, article 6 or the audit act ¹

B. The governing body shall report to the local government division of the state department of finance and administration on a quarterly basis any expenditure of occupancy tax funds pursuant to New Mexico Statutes Annotated sections 3-38-15 and 3-38-21 and shall furnish a copy of this report to the advisory board when it is filed with the division. (Ord. 1996-12, 10-10-1996; amd. 2003 Code)

Notes

¹ 1. NMSA § 12-6-1 et seq. that relates to expenditure of occupancy tax funds within ten (10) days of the filing or receipt of such proposed budget, report or audit by the governing body. (Ord. 1996-12, 10-10-1996)

3-3-12: VENDOR AUDITS:

A. The governing body shall conduct random audits to verify full payment of occupancy tax receipts.

B. The governing body shall determine each year the number of vendors within the village to audit. (Ord. 1996-12, 10-10-1996)

C. The audits may be performed by the village clerk or by any other designee of the governing body. A copy of the audits shall be filed annually with the local government division of the state department of finance and administration. (Ord. 1996-12, 10-10-1996; amd. 2003 Code)

3-3-13: CONFIDENTIALITY OF RETURN AND AUDIT:

It is unlawful for any employee of the village to reveal to any individual other than another employee of the village any information contained in the return or audit of any taxpayer, including vendors subject to the lodgers' tax act, except to a court of competent jurisdiction in response to an order thereof in an action relating to taxes to which the village is a party, and in which information sought is material to the inquiry; to the taxpayer himself or to his authorized representative; and in such manner, for statistical purposes, the information revealed is not identified as applicable to any individual taxpayer. (Ord. 1996-12, 10-10-1996)

3-3-14: REFUNDS AND CREDITS:

If any person believes he has made payment of any lodgers' tax in excess of that for which he was liable, he may claim a refund thereof by directing to the village clerk, no later than ninety (90) days from the date payment was made, a written claim for refund. Every claim for refund shall state the nature of the person's complaint and the affirmative relief requested. The village clerk shall allow the claim in whole or in part or may deny it. Refunds of tax and interest erroneously paid and amounting to one hundred dollars (\$100.00) or more may be made only with the approval of the governing body. (Ord. 1996-12, 10-10-1996)

3-3-15: FAILURE TO MAKE RETURN:

A. Liability For Tax; Civil Penalty: Every vendor is liable for the payment of the proceeds of any occupancy tax that the vendor failed to remit to the village, whether due to his failure to collect the tax or otherwise. He shall be liable for the tax plus a civil penalty equal to the greater of ten percent (10%) of the amount not remitted or one hundred dollars (\$100.00). The village clerk shall give the delinquent vendor written notice of the delinquency, which notice shall be mailed to the vendor's local address.

B. Collection Of Delinquent Taxes: If payments are not received within fifteen (15) days of the mailing of the notice, the village may bring an action in law or equity in the district court for the collection of any amounts due, including, without limitation, penalties thereon, and interest on the unpaid principal at a rate not exceeding one percent (1%) a month. If the village attempts collection through an attorney or the village attorney for any purpose with regard to this chapter, the vendor shall be liable to the village for all costs, fees paid to the attorney or village attorney, and all other expenses incurred in connection therewith.

C. Tax A Lien: The occupancy tax imposed by the village constitutes a lien in favor of the village upon the personal and real property of the vendor providing lodgings. The lien may be enforced as provided in New Mexico Statutes Annotated sections 3-36-1 through 3-36-7. Priority of the lien shall be determined from the date of filing.

D. Property Sales; Taxes To Be Current: Under process or order of court, no person shall sell the property of the vendor without first ascertaining from the village clerk or treasurer the amount of any occupancy tax due the village. Any occupancy

tax due the village shall be paid from the proceeds of the sale before payment is made to the judgment creditor or any other person with a claim on the proceeds of the sale. (Ord. 1996-12, 10-10-1996)

3-3-16: ENFORCEMENT AND PENALTIES:

A. Enforcement:

1. An action to enforce the lodgers' tax act may be brought by:

- a. The attorney general or the district attorney in the county of jurisdiction; or
- b. A vendor who is collecting the proceeds of an occupancy tax in the county of jurisdiction.

2. A district court may issue a writ of mandamus or order an injunction or other appropriate remedy to enforce the provisions of the lodgers' tax act.

3. The court shall award costs and reasonable attorney fees to the prevailing party in a court action to enforce the provisions of the lodgers' tax act. (Ord. 1996-12, 10-10-1996)

B. Criminal Penalties: Any person who violates the provisions of this chapter for a failure to pay the tax, to remit proceeds thereof to the village, to properly account for any lodging and tax proceeds pertaining thereto, or for violating the confidentiality provisions of section 3-3-13 of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 1996-12, 10-10-1996; amd. 2003 Code)

CHAPTER 4
LIQUOR LICENSE TAX

SECTION:

3-4-1: Definitions

3-4-2: Tax And Fees Imposed

3-4-3: Licensing Procedures

3-4-4: Failure To Pay Tax

3-4-5: Penalty

3-4-1: DEFINITIONS:

For the purposes of this chapter, the following definitions shall apply:

CLUB: Any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of the state, with a membership of not less than fifty (50) members who pay membership dues at the rate of not less than five dollars (\$5.00) per year and who, under the constitution and bylaws of the club, have all voting rights and full membership privileges and which group is the owner, lessee or occupant of premises used exclusively for club purposes and which group the director finds is operated solely for recreation, social, patriotic, political, benevolent or athletic purposes.

DEPARTMENT: The state department of alcoholic beverage control.

DIRECTOR: The director of the department.

DISPENSER: Any person licensed under the provisions of the liquor control act

GOVERNING BODY: The mayor and elected village council members.

PERSON: An individual, corporation, firm, partnership, copartnership, association or other legal entity.

RESTAURANT: Any establishment having a New Mexico resident as a proprietor or manager which is held out to the public as a place where meals are prepared and served primarily for on premises consumption to the general public in consideration of payment and which has a dining room, a kitchen, and the employees necessary for preparing, cooking, and serving meals; provided, that "restaurant" does not include establishments as defined in regulations promulgated by the director serving only hamburgers, sandwiches, salads, and other fast foods.

RETAILER: Any person licensed under the provisions of the liquor control act selling, offering for sale, or having in his possession with the intent to sell, any alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises. (Ord. 1986-07, 10-2-1986; amd. 2003 Code)

1. NMSA § 60-3A-1 et seq.1, selling, offering for sale or having in his possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages for consumption and not for resale off the licensed premises.

3-4-2: TAX AND FEES IMPOSED:

A. Liquor License Tax: Pursuant to the provisions of New Mexico Statutes Annotated section 7-24-1, on or after the effective date hereof, no person who has been issued a state license from the department shall be given possession of the license by the village until the person has paid the municipal license tax, in full, by July 1. The tax rates shall be as follows:

<u>Type Of License</u>	<u>Tax Amount</u>
Retailer	\$200.00
Dispenser	200.00
Canopy	200.00
Club	200.00
Restaurant	200.00

B. Special Dispenser's Permit: Persons granted a special dispenser's permit, under the provisions of New Mexico Statutes Annotated section 60-6A-12, shall pay to the village a fee of twenty five dollars (\$25.00) per day for each day the permittee dispenses alcoholic beverages. (Ord. 1986-07, 10-2-1986)

3-4-3: LICENSING PROCEDURES:

The village shall be bound to follow the procedures set forth in New Mexico Statutes Annotated section 60-6B-4 regarding applications for liquor licenses to the governing body of the village. (Ord. 1986-07, 10-2-1986)

3-4-4: FAILURE TO PAY TAX:

Failure of any person holding a retailer's, dispenser's, canopy, club or restaurant license to pay such license tax on the date(s) and in the manner imposed by this chapter shall be subject to appropriate action by the governing body of the village, as provided by New Mexico Statutes Annotated section 7-24-3 relating to the closing of establishments. (Ord. 1986-07, 10-2-1986)

3-4-5: PENALTY:

Any person violating any of the provisions of this chapter shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 1986-07, 10-2-1986; amd. 2003 Code)

CHAPTER 5

ITINERANT VENDORS; SPECIAL EVENTS

SECTION:

3-5-1: Itinerant Vendors

3-5-2: Special Events From Two Hundred To Seven Hundred Persons

3-5-3: Special Events Over Seven Hundred Persons

3-5-4: Penalties

3-5-1: ITINERANT VENDORS:

A. Definitions:

CONVEYANCE: Includes any public or privately owned vehicle, method or means of transporting people, bicycle, motorized or nonmotorized vehicle, handcart, pushcart, lunch wagon or any other device or thing, whether or not mounted on wheels and approved by the planning director.

GOODS, WARES AND MERCHANDISE: Shall include, but not be limited to: fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, appliances, wearing apparel, jewelry, ornaments, artwork, cosmetics and beauty aids, health products, household needs and furnishings, firewood, food of any kind, whether or not for immediate consumption, confections or drinks.

ITINERANT VENDOR: Any person, firm, corporation, partnership or association who does not live within the community of Angel Fire that does not regularly conduct business within the village, who sells merchandise of any character, whether the delivery is made by them or not, or who shall on a transient or temporary basis bring into the village and engage in the sale of services, stocks of goods, wares or merchandise, including, but not limited to, fruits or vegetables, firewood, farm or garden produce of their own raising, or someone else's, or vehicles for hire, and offer the same to the public.

NONPROFIT ORGANIZATIONS: A 501(c)(3) or (c)(6) tax exempt organization as defined by the internal revenue service. Nationally recognized youth oriented organizations, such as, but not limited to: Girl Scouts, Boy Scouts, 4-H clubs, public

safety organizations, nationally recognized religious organizations, youth organizations, and the chamber of commerce are considered as nonprofit organizations.

PREPARED FOOD VENDOR: Any person who holds a valid food handler's certificate and who goes from place to place selling prepared or precooked food for human consumption from a vehicle, pushcart or portable container.

VENDING STAND: Any showcase, table, bench, rack, handcart, pushcart, stall, canopy or any other fixture or device that is used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise upon private property not to exceed ten feet by twenty feet (10' x 20') in area and approved by the planning director. (Ord. 2005-02, 2-17-2005; amd. Ord. 2011-05, 6-14-2011)

B. License Fees And Exemptions:

1. Fee: For a village itinerant vendor's license, a twenty five dollar (\$25.00) per day fee is required.

2. Exemptions:

a. Wholesale persons taking orders for merchandise to be delivered to retail dealers for resale.

b. Nonprofit organizations.

c. Events sponsored by the Angel Fire Community Center.

d. Newspaper vending.

e. Garage sales.

f. A local merchant holding a current village business license may offer itinerant vending of items for sale either at his or her place of business or elsewhere when money for all the merchandise sold by the itinerant vendor is received through the merchant's regular business receipts, recording each sale.

C. Information Required: Before the planning division shall issue an itinerant vendor's license, the itinerant vendor shall supply the following information:

1. Name of business.

2. Mailing address of vendor or business physical address if different from mailing address.

3. Name of owners of the business indicating whether the business is a sole proprietorship, a partnership or a corporation.

4. The nature of the business. (Ord. 2005-02, 2-17-2005)

5. a. The number of days during which a temporary business shall be conducted in the village, the dates for which application is made, and period of time, not to exceed four (4) days per calendar month, for which an itinerant vendor's license is sought.

b. The number of days during which a seasonal business shall be conducted in the village, the dates for which application is made, and period of time, not to exceed four (4) months per calendar year, for which a business registration is required in addition to an application fee of fifty dollars (\$50.00). (Ord. 2011-05, 6-14-2011)

6. State of New Mexico tax identification number or evidence of an application for a current revenue division taxpayer identification number and the state of New Mexico professional license number, i.e., contractor license, if applicable. For food vending, proof of license by the state authorities.

7. A drawing of sign advertising the itinerant business attached to application. (Only 1 sign no larger than 3 feet by 8 feet in size is approved with the license. The sign must be in accordance with the village sign ordinance)

8. A letter from the property owner, at the location intended for use by the vendor, indicating the owner's permission and proof of ownership of the property by the owner.

9. A drawing showing the approximate location where the vending will take place in relation to the property involved. (Ord. 2005-02, 2-17-2005)

D. For Profit Business: A for profit business which is for the purpose of permitting itinerant vendors to sell goods, wares and merchandise in vending stands such as a flea market, shall follow all the business licensing and zoning requirements, and each itinerant vendor must obtain an itinerant vendor's license. (Ord. 2011-05, 6-14-2011)

E. Nonprofit Organizations:

1. Nonprofit organizations attempting to raise funds for the direct benefit of the organization program, such as, but not limited to: any youth oriented organizations, i.e., Girl Scouts, Boy Scouts, 4-H clubs; public safety organizations, religious organizations, and the chamber of commerce, whose purpose is for the benefit of the Angel Fire community, must obtain a business license from the village, at no cost, prior to conducting business within the municipal boundaries.

2. For nonprofit organizations sponsoring events such as, but not limited to, arts and crafts shows, flea markets, farmer markets and wine and cheese tasting events, the itinerant vendors taking part are not required to be licensed under this chapter.

3. The vendors shall obey all village, county and state laws as they may apply to zoning, signs or banners, unreasonable noise and other such requirements. (Ord. 2005-02, 2-17-2005)

F. Permitted Locations: Temporary businesses and seasonal businesses shall only be allowed in the C-1, C-2, O-1, O-2, O-4, and O-5 zoning districts.

G. Prohibited Locations:

1. Other than garage sales and home occupational businesses as defined in this code, no temporary businesses, seasonal businesses, and door to door sales shall be permitted in the R-1, R-2, R-3, R-4, R-5, and R-6 zoning districts.

2. No vendor shall be permitted to operate in the following areas:

a. Within fifteen feet (15') of any street intersection or pedestrian crosswalk.

b. Within ten feet (10') of any driveway, loading zone or bus stop.

c. In any area within twenty feet (20') of a building entrance or exit or in the case of a hotel, within ten feet (10') of building entrances or exits.

d. Within ten feet (10') of any fire hydrant, fire escape or any parking space or access ramp designated for persons with disabilities.

H. Issuance Of License:

1. Notice Of Issuance Or Denial: The applicant shall be notified, in writing, by the planning director of the village's decision to issue or deny the vending license within ten (10) working days after the applicant has filed a completed application with the planning division.

2. Contents Of License: Each license shall show the name and address of the licensee, the type of license issued, New Mexico tax ID number, the kind of goods, wares and merchandise to be sold, the amount of the license fee, the date of issuance, the license number, an identifying description of the method of conveyance and the vending stand, and the license expiration date.

3. Term Of License; Assignability, Transferability: All licenses issued under this section are valid for a time specific as determined by the planning director unless suspended or revoked by the planning director for noncompliance to any village, county, or state law. All licenses issued under this section are both nonassignable and nontransferable.

4. Display Of License: All licenses issued under this section shall be publicly displayed at the vending stand or on the method of conveyance. Any other licenses required by the state shall also be displayed in the same manner.

5. Hours Of Operations: Vendors shall be allowed to engage in the business of vending only between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M. MST. An extension to the hours of operation may be approved by the planning director for special events only. No vending stand, conveyance or other item related to the operation of a vending business shall be located on any village sidewalk or other public way during nonvending hours. Nor shall any vehicles be parked, stored or left overnight other than in a lawful parking place.

Exemption: Nonmotorized conveyance shall be allowed on public ways and spaces at Plaza del Sol.

6. Littering; Trash Removal:

a. Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending stand or locations clean and free of paper, peelings, debris and refuse of any kind generated from the operation of their businesses.

b. Persons engaged in food vending shall affix to their vending stand a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter. (Ord. 2011-05, 6-14-2011)

Notes

¹ 1. See title 9, chapter 8 of this code.1.)

3-5-2: SPECIAL EVENTS FROM TWO HUNDRED TO SEVEN HUNDRED PERSONS:

A. Definition: Small events such as fairs, musical performance, and other events, which are not under the normal operation of existing businesses in the village, and draw or expect to draw a group of people from two hundred (200) to seven hundred (700) in size at any one time.

B. Application For License; Information Required: All vendors or sponsors including nonprofit organizations must submit a request through the planning division to have a special event. Before the planning division shall issue a special event license for less than seven hundred (700) persons in attendance, the vendor or organization shall supply the information as required for itinerant vendors in subsection 3-5-1C of this chapter.

C. Time For Filing Application: Any itinerant vendor, excluding local licensed merchants participating in an organized special event or function, must submit his or her application for an itinerant vendor license to the planning division at least one day in advance of conducting business in the village. Organizations sponsoring the function are responsible for

ensuring that the itinerant vendors submit their applications to the planning division in a timely manner.

D. Number Of Days Restricted; License Fee: Such events shall last no longer than four (4) consecutive days, and the special event license shall cost fifty dollars (\$50.00) per day, exempting the fee for nonprofit organizations.

E. Event Location: The vendor will be required to hold the event in approved zoned areas of the village, but in no case in any residential zone unless approved by the village council.

F. Safety Measures:

1. The vendor may be required by the village council, as based on the predicted public attendance of the event, to provide public safety measures to include professional security, emergency medical services, fire protection, off street parking of vehicles, law enforcement for the direction of traffic on village streets at the entrances and exits to the event, and sanitation requirements such as toilets and trash containers.

2. In the case of amusement rides being offered to the public, the vendor must show proof of safety inspection of the rides prior to use, and that the vendor has reasonable liability insurance to cover the rides and the event.

3. If the vendor erects any structures, the structures must be inspected and approved for public safety by the village building official.

G. Other Licenses: The vendor shall be required to furnish proof of all New Mexico state licensing requirements as may be required.

H. Compliance With Other Laws: The vendor shall obey all village, county and state laws as they may apply to the event as to unreasonable noise and other such requirements. (Ord. 2005-02, 2-17-2005)

3-5-3: SPECIAL EVENTS OVER SEVEN HUNDRED PERSONS:

A. Definition: Large events such as fairs, musical performances, and other events, which are not under the normal operation of existing businesses in the village, and the event draws or expects to draw a group of over seven hundred (700) people at any one time.

B. Application For License; Information Required: All vendors or sponsors including nonprofit organizations must submit a request through the village council to have such a special event. Before the planning division shall issue a special large event license, the vendor or sponsor shall have complied with the village council requirements and supply the following information:

1. Name of business.
2. Mailing address of vendor or business and physical address if different from mailing address.
3. Name of owners of the business indicating whether the business is a sole proprietorship, a partnership or a corporation.
4. The nature of the special event.
5. The number of days during which the business shall be conducted in the village, the dates for which application is made, and period of time, not to exceed seven (7) days, for which a license is sought.
6. State of New Mexico tax identification number or evidence of an application for a current revenue division taxpayer identification number.
7. Approval by the planning and zoning commission for any signs to be used for advertising the special event.
8. A letter from the property owner, at the location intended for use by the vendor, indicating the owner's permission and proof of ownership of the property by the owner.
9. A drawing showing the approximate location where the special event will take place in relation to the property involved.

C. Number Of Days Restricted; License Fees: Such events shall last no longer than seven (7) consecutive days, and the license shall cost the vendor two hundred dollars (\$200.00) per day, in addition to the itinerant vendor fifty dollar (\$50.00) license fee. The village council may waive fees for nonprofit organizations.

D. Event Location: The vendor will be required to hold the event in approved zoned areas of the village, but in no case in any residential zone unless approved by the village council.

E. Safety Measures:

1. The vendor may be required to provide public safety measures to include professional security, emergency medical services, fire protection, off street parking of vehicles, law enforcement for the direction of traffic on village streets at the entrance and exits to the event, and sanitation requirements such as toilets and trash containers.

2. In the case of amusement rides being offered to the public, the vendor must show proof of safety inspection of the rides prior to use, and that the vendor has reasonable liability insurance to cover the rides and the event.

3. If the vendor erects any structures, the structures must be inspected and approved for public safety by the village building official.

F. Other Licenses: The vendor shall be required to furnish proof of all New Mexico state licensing requirements as may be required.

G. Compliance With Other Laws And Requirements:

1. The vendor shall be required to meet all other reasonable requirements as may be required by the council as based on the predicted public attendance of the event. The vendor may be required to provide additional funds to the village to hire additional law enforcement officers and other support personnel for the village for every seven hundred (700) persons expected to attend the event each day.

2. The vendor shall obey all village, county and state laws as they may apply to the event as to unreasonable noise and other such requirements. (Ord. 2005-02, 2-17-2005)

3-5-4: PENALTIES:

Any person or organization which violates this chapter or fails to follow the plan upon which a license is based shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-02, 2-17-2005)

CHAPTER 6

ECONOMIC DEVELOPMENT PLAN

SECTION:

3-6-1: Short Title

3-6-2: Authority

3-6-3: Purpose; Development Act

3-6-4: Definitions

3-6-5: Development Projects

3-6-6: Application Requirements

3-6-7: Review Criteria

3-6-8: Public Safeguards

3-6-9: Project Participation Agreement

3-6-10: Project Monies

3-6-11: Termination

3-6-12: Joint Regional Projects

3-6-1: SHORT TITLE:

This chapter may be cited as the *ECONOMIC DEVELOPMENT PLAN ORDINANCE*. (Ord. 2006-13, 11-15-2006)

3-6-2: AUTHORITY:

This chapter is enacted pursuant to the statutory authority conferred upon municipalities to allow public support of economic development ¹

Notes

¹ 1. NMSA §§ 5-10-1 – 5-10-13 (1978).1. This chapter is adopted as part of the village's economic development plan. (Ord. 2006-13, 11-15-2006)

3-6-3: PURPOSE; DEVELOPMENT ACT:

A. Purpose: The purpose of this chapter is to allow public support of economic projects to foster, promote and enhance local economic development efforts while continuing to protect against the unauthorized use of public money and other public resources. Further, the purpose of this chapter is to allow the village to enter into one or more joint powers agreement with other local governments to plan and support regional economic development projects.

B. Local Economic Development Act: Local governments are allowed to provide direct or indirect assistance to qualifying businesses for furthering or implementing economic development plan and projects, furthermore local and regional governments have the authority to contribute assets to development projects; however, the imposition of a tax must be approved by the voters in referendum.

1. Eligible Uses: Municipalities may impose municipal infrastructure gross receipts tax and dedicate the revenue for economic development projects. A total of 0.25 percent tax (in 4 increments of 0.0625 percent) may be imposed. (Ord. 2006-13, 11-15-2006)

3-6-4: DEFINITIONS:

As used in this chapter:

ECONOMIC DEVELOPMENT PROJECT: The provision of direct or indirect assistance to a qualifying business and includes the purchase, lease, grant, or construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure; public works improvements essential to the location expansion of a qualifying business; and payments for professional services contracts necessary for local or regional governments to implement a plan or project.

GOVERNING BODY: The village of Angel Fire council.

PROJECT PARTICIPATION AGREEMENT: An agreement between a qualifying entity and the village whereby the village provides assistance to an economic development project in exchange for the benefits received as set forth in this chapter.

QUALIFYING ENTITY: An existing or proposed corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two (2) or more of the following:

- A. An industry for manufacturing, processing, or assembling of any agricultural or manufactured products;
- B. A commercial enterprise for storing, warehousing, distributing, or selling products of agriculture, mining or industry, but other than provided in subsection D of this definition, not including any enterprise for sale of goods or commodities at retail or for the distribution to the public of electricity, gas, water, or telephone or other services commonly classified as public utilities;
- C. A business in which all or part of the activities of the business involves the supplying of services to the general public or to government agencies or to a specific industry or customer, but, other than provided in subsection D of this definition, not including businesses primarily engaged in the sale of goods or commodities at retail;
- D. A telecommunications sales enterprise that makes the majority of its sales to persons outside of New Mexico. (Ord. 2006-13, 11-15-2006)

3-6-5: DEVELOPMENT PROJECTS:

A. The village of Angel Fire manager after approval of the governing body may assist economic development projects in any legally permissible manner including, but not limited to, provision of land, buildings and infrastructure provided that all the requirements of this chapter are met. The village may provide land, buildings or infrastructure it already owns, or it may build, purchase or lease the facilities needed for an economic development project. The village at its discretion may bear the full cost or contribute a portion of the costs including the waiver of applicable fees. The village, at its discretion, may also contribute to the payment of costs for professional service contracts such as industry feasibility studies and planning and design services needed to implement a project.

B. The governing body may consider offering all forms of assistance allowed under this chapter and any other legally permissible forms of assistance; however, this does not establish any obligation on the village's part to offer any specific type or level of assistance. (Ord. 2006-13, 11-15-2006)

3-6-6: APPLICATION REQUIREMENTS:

A. Any "qualifying entity" meeting the definition set forth in section 3-6-4 of this chapter may propose an economic development project to the village. Meeting the definition of a "qualifying entity" does not create any obligation on the part of the village of Angel Fire.

B. Applications from qualifying entities shall be submitted to the village of Angel Fire on forms provided by the village.

C. Applications shall contain the following information for business applicants:

- 1. Identification information:
 - a. Complete name and address of entity;
 - b. Incorporation papers with bylaws;
 - c. List of board of directors and executive director, with addresses; and
 - d. Resumes of all directors and officers.
- 2. Evidence of financial solvency (personal statement of principals):
 - a. Financial statement (income statement and balance sheets) for the past three (3) years;
 - b. Federal tax number, New Mexico state taxation and revenue number and village business license;
 - c. Projected income statement for at least three (3) years.
- 3. Evidence of organizational capacity:
 - a. Brief history of the entity;
 - b. Organizational chart of the entity;
 - c. Business plans for the entity and proposed project (shall include pro forma cash flow analysis).

D. The project participation agreement and any other pertinent information will be forwarded to the governing body for final consideration at a public meeting. (Ord. 2006-13, 11-15-2006)

3-6-7: REVIEW CRITERIA:

A. Applications for economic development projects requesting economic assistance from the village, which meet the policies and objectives of the village's economic development plan, shall receive priority. Examples include, but are not limited to:

1. Manufacturing firms (including intellectual property such as computer software);
2. Projects, which enhance the exporting capacity of companies and/or provide goods and services, which currently have to be imported into the village of Angel Fire;
3. Private companies seeking to build, expand or relocate facilities;
4. Private companies which provide facilities or services which enhance the ability of Angel Fire businesses to operate;
5. Organizations, which assist business startups or bring small companies together to increase their competitive abilities. This must involve a tangible project, which will create jobs and promote an industry. Examples include, but are not limited to:
 - a. Business incubators;
 - b. Art incubators or coalition (e.g., a performing arts coalition seeking construction of rehearsal or performance facilities);
 - c. Public markets for farmers, gardeners, crafts, etc.; and
 - d. Organizations which foster economic development by promoting work force development efforts such as apprenticeships or other job training programs;
6. Projects in industry clusters listed above are particularly encouraged, but others are eligible to apply as well. The intention is to retain flexibility in the use of incentives; and
7. Qualifying entities with existing contracts or projects with the village when this plan is adopted may propose a restructuring of their projects as an economic development project.

B. All applications for economic development projects requesting economic assistance from the village shall submit a cost benefit analysis. Preparing a cost benefit analysis shall be the responsibility of the applicant. The village retains the right to specify a format and methodology for the cost benefit analysis. The village council shall review and approve the methodology used. The source and rationale for any multiplier effects shall be identified. The cost benefit analysis shall show that the village will recoup the value of its donation within a period of ten (10) years. The analysis shall address the following:

1. The number and type of jobs to be created, both temporary construction jobs and permanent jobs (by New Mexico department of labor job category);
2. Pay scale of jobs;
3. Determination of which jobs are expected to be filled locally and which will be filled by transfers from other facilities or recruited from outside the Angel Fire area;
4. Total payroll expected at startup and after one year;
5. Anticipated impact on local tax base; and
6. Anticipated impact on local school systems.

C. All applicants for economic development projects requesting economic assistance from the village shall require the same review required of industrial revenue bond applications. This review shall focus on environmental and community impacts of proposed projects. Special attention shall be given to job training and career advancement programs and policies. Projects shall demonstrate a strong commitment to providing career opportunities for Angel Fire area residents. Cultural impacts of projects shall also be considered.

D. Any qualifying entity seeking assistance shall prepare and make available a job training and career development plan for their employees.

E. All applicants for economic development projects requesting economic assistance from the village shall clearly demonstrate the benefits, which will accrue to the community as a result of the donation of public resources. The village has considerable flexibility in determining what is considered as adequate benefits. Benefits such as providing components or production capabilities, which enhance a targeted industry cluster, or addressing critical deficiencies in regional economy, may be recognized. The benefits claimed of any proposal will receive careful scrutiny. However, it is the intent of this chapter to be flexible in the evaluation of these benefits, and to recognize the qualitative as well as quantitative impact of a proposal.

F. All applicants for economic development projects requesting assistance from the village shall clearly demonstrate how the qualifying entity is making a substantive contribution. The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax base, property or other thing or service of value for the expansion or improvement of the

economy. The village retains flexibility in defining the "substantive contributions". The benefits identified in the previous paragraphs may be accepted as adequate contributions on their own, or cash donations may be required. Assistance in providing affordable housing to its employees or the community at large may also qualify. Determination of what constitutes an acceptable contribution for a given project shall be at the discretion of the governing body. (Ord. 2006-13, 11-15-2006)

3-6-8: PUBLIC SAFEGUARDS:

A. All economic development projects receiving assistance from the village shall be subject to an annual performance review conducted by the village of Angel Fire. This review shall evaluate whether the project is attaining the goals and objectives set forth in the project participation agreement. This review shall be presented to the governing body for their consideration. The governing body at a public hearing may terminate assistance to the economic development project by provisions set forth in the agreement, which terminates the agreement and specifies the disposition of all assets and obligations of the project.

B. The village shall retain a security interest, which shall be specific in the project participation agreement. The type of security given shall depend upon the nature of the economic development project and assistance provided by the village. Types of security may include, but are not limited to:

1. Letter of credit in the village's name;
2. Performance bond equal to the village's contribution;
3. A mortgage or lien on the property or equipment;
4. Prorated reimbursement of donation if company reduces work force or leaves the community before the term agreed to; and
5. Other security agreeable to both parties.

C. Should a qualifying entity move, sell, lease or transfer a majority interest in the economic development project before the expiration of the project participation agreement, the village retains the right to deny any and all assignments, sales, leases or transfers of any interests in the economic development project until adequate assurances are made that the transferee, assignee or lessee is a qualifying entity and that the terms of the agreement will be satisfied by the transferee, assignee or lessee. At its discretion, the village may choose to deny said assignment, lease or transfer or may negotiate a new agreement with the new operator, or the village may reclaim the facility and enter into an agreement with the new qualifying entity.

D. Any qualifying entity seeking assistance from public resources shall commit to operate in accordance with its project participation agreement for a minimum of ten (10) years from the date the ordinance is adopted and the project participation agreement is passed by the governing body. (Ord. 2006-13, 11-15-2006)

3-6-9: PROJECT PARTICIPATION AGREEMENT:

A. The qualifying entity shall prepare with the village a project participation agreement. This agreement is the formal document, which states the contribution and obligation of all parties in the economic development project. The agreement must state the following items:

1. The economic development goals of the project;
2. The contribution of the village and the qualifying entity;
3. The specific measurable objectives upon which the performance review will be read;
4. A schedule for project development and goal attainment;
5. The security being offered for the village's investment;
6. The procedures by which a project may be terminated and the village's investment recovered; and
7. The time period for which the village shall retain an interest in the project. Each project agreement shall have a "sunset" clause after which the village shall relinquish interest in and oversight of the project.

B. Each project participation agreement shall be subject to review and approval by the governing body at a public hearing. (Ord. 2006-13, 11-15-2006)

3-6-10: PROJECT MONIES:

All project monies shall be kept in a separate account by the entity and the village, with such account clearly identified. These accounts shall be subject to an annual independent audit. (Ord. 2006-13, 11-15-2006)

3-6-11: TERMINATION:

The governing body may terminate this chapter and the village's economic development plan and any or all project participation agreements undertaken under its authority. Termination shall be by ordinance at a public hearing or in accordance with the terms of the project participation agreement. If an ordinance or a project participation agreement is terminated, all contract provisions of the project participation agreement regarding termination shall be satisfied. Upon termination of the ordinance or any project participation agreement, any village monies remaining in the village project accounts shall be transferred to the village's general fund. (Ord. 2006-13, 11-15-2006)

3-6-12: JOINT REGIONAL PROJECTS:

The village may engage in economic development projects involving one or more other government entities for projects, which encompass more than one municipality or county. In such instances, the relevant governing bodies shall adopt a joint powers agreement. This agreement will establish the application criteria and the terms of all project participation agreements. Criteria established under a joint powers agreement shall be consistent with the provisions of this chapter. (Ord. 2006-13, 11-15-2006)

CHAPTER 7

SPORTS AND RECREATION FACILITY FEE

SECTION:

3-7-1: Definitions

3-7-2: Imposition Of Sports And Recreation Facility Fee

3-7-3: Review Of Fee

3-7-4: No Reduction Of Fee

3-7-5: Dedication Of Fee Revenues

3-7-6: Exemptions

3-7-7: Collection Of Sports And Recreation Facility Fee; Reporting; Records

3-7-8: Audit Of Vendors

3-7-9: Financial Reporting

3-7-10: Enforcement

3-7-11: Collection Of Delinquencies

3-7-12: Lien For Sports And Recreation Facility Fee; Payment; Certificate Of Lien

3-7-13: Dispute Resolution

3-7-14: Financial Reporting To State

3-7-15: Penalties

3-7-1: DEFINITIONS:

LOCAL GOVERNMENTAL ENTITY: A qualified municipality authorized by the sports and recreation facility act to impose sports and recreation facility fees.

LODGING FACILITY: A hotel, motel or motor hotel, a bed and breakfast facility, an inn, a resort or other facility offering rooms for payment of rent or other consideration.

QUALIFIED MUNICIPALITY: An incorporated municipality that has a population of more than one thousand (1,000) but less than one thousand fifty (1,050) according to the 2000 federal decennial census located in a class B county.

ROOM: A unit of a lodging facility, such as a hotel room.

SPORTS AND RECREATION FACILITY FEE: The fee imposed by a local government entity pursuant to the sports and recreation facility financing act on vendees for the use of lodging facilities.

VENDEE: A person who rents or pays consideration to a vendor for use of a room.

VENDOR: A person or his agent who furnishes rooms for occupancy for consideration.

VILLAGE: The village of Angel Fire, New Mexico. (Ord. 2008-04, 6-3-2008)

3-7-2: IMPOSITION OF SPORTS AND RECREATION FACILITY FEE:

A. The village hereby imposes a fee on the use of each room within each lodging facility located in the village, which shall be known as the "sports and recreation facility fee". The amount of the sports and recreation facility fee shall be 2.4 percent of the gross room revenue for each day the room is occupied by a vendee. The sports and recreation facility fee shall be imposed for a period of not more than twenty (20) years from the effective date hereof. (Ord. 2008-04, 6-3-2008)

3-7-3: REVIEW OF FEE:

The sports and recreation facility fee imposed pursuant to this chapter shall be reviewed by the governing body of the village annually and the governing body shall determine that the sports and recreation facility facilitates the goal of increasing tourism in the village. (Ord. 2008-04, 6-3-2008)

3-7-4: NO REDUCTION OF FEE:

The village shall not decrease the sports and recreation facility fee while revenue bonds to which the revenue of the sports and recreation facility fees is pledged remain outstanding. (Ord. 2008-04, 6-3-2008)

3-7-5: DEDICATION OF FEE REVENUES:

The revenue from the sports and recreation facility fee is hereby dedicated to the following:

- A. The design, construction, equipping, furnishing, landscaping and other costs associated with the development of a sports and recreation facility located within the village;
- B. Payments of principal, interest or prior redemption premiums due in connection with and any other charges pertaining to revenue bonds authorized by the sports and recreation facility financing act, including payments into any sinking fund or reserve fund required by the revenue bond ordinance;
- C. Costs of collecting and otherwise administering the sports and recreation facility fee; provided that administration costs shall not be paid if there are current payments due pursuant to subsection B of this section and that no more than ten percent (10%) of the revenue collected in any fiscal year shall be used to pay administration costs;
- D. Operation costs of the sports and recreation facility located within the village; provided that no such costs shall be paid if there are current payments due pursuant to subsection B of this section; and
- E. Payments into a capital reserve fund established for the future payment for capital maintenance and improvements and equipment replacement costs of the sports and recreation facility located within the village; provided that no payments shall be made pursuant to this subsection if there are current payments due pursuant to subsection B of this section. (Ord. 2008-04, 6-3-2008)

3-7-6: EXEMPTIONS:

The sports and recreation facility fee shall not apply:

- A. If the village by ordinance exempts lodging facilities whose maximum daily room charge is less than the amount stated in the ordinance;
- B. To rooms at institutions of the federal government, the state or any political subdivision thereof;
- C. To rooms at religious, charitable, educational or philanthropic institutions or other nonprofit organizations, including rooms at summer camps operated by such institutions;
- D. To clinics, hospitals or other medical facilities;
- E. To privately owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; or
- F. If the vendor does not offer at least three (3) rooms at its lodging facility. (Ord. 2008-04, 6-3-2008)

3-7-7: COLLECTION OF SPORTS AND RECREATION FACILITY FEE; REPORTING; RECORDS:

- A. A vendor providing rooms in the village shall collect the fee on behalf of the village and shall remit the fees collected to the village on or before the twenty fifth of each month along with the lodger's tax fees.
- B. The sports and recreation facility fee shall be collected by a vendor from vendees as a room surcharge at the time that rent is collected by the vendor and shall be accounted for separately from the rent fixed by the vendor for rooms. (Ord. 2008-04, 6-3-2008)

3-7-8: AUDIT OF VENDORS:

The village shall include verification of the collection of the correct sports and recreation facility fee in any audit of a vendor conducted pursuant to section 3-38-17.1 New Mexico Statutes Annotated 1978. (Ord. 2008-04, 6-3-2008)

3-7-9: FINANCIAL REPORTING:

The chief financial officer of the village shall report to the local government division of the department of finance and administration on a quarterly basis any expenditure of sports and recreation facility fee funds. (Ord. 2008-04, 6-3-2008)

3-7-10: ENFORCEMENT:

- A. An action to enforce the act may be brought by:
 - 1. The attorney general or the district attorney in the county of jurisdiction; or
 - 2. A vendor who is collecting the proceeds of a sports and recreation facility fee in the county of jurisdiction.
- B. A district court may issue a writ of mandamus or order an injunction or other appropriate remedy to enforce the provisions of the act.
- C. The court shall award costs and reasonable attorney fees to the prevailing party in a court action to enforce the provisions of the act. (Ord. 2008-04, 6-3-2008)

3-7-11: COLLECTION OF DELINQUENCIES:

- A. The vendor is liable for the payment of the proceeds of sports and recreation facility fees that the vendor failed to remit to the village. Failure of the vendor to collect the fee is not cause for the village to forgive sports and recreation facility fees due and owed by the vendor. A civil penalty is imposed for each occurrence of failure to remit sports and recreation facility fees in an amount equal to the greater of ten percent (10%) of the amount that was not duly remitted to the village or one hundred dollars (\$100.00).
- B. The village may bring an action in the district court of the judicial district in which the village is located for collection of amounts due, including, without limitation, penalties on the amounts due on the unpaid principal at a rate not exceeding one

percent (1%) per month, the costs of collection and reasonable attorney fees incurred in connection with the court action to collect the unpaid sports and recreation facility fees. (Ord. 2008-04, 6-3-2008)

3-7-12: LIEN FOR SPORTS AND RECREATION FACILITY FEE; PAYMENT; CERTIFICATE OF LIEN:

A. The sports and recreation facility fee assessed by the village constitutes a lien in favor of the village upon the personal and real property of the vendor providing lodging facilities in the village. The lien may be enforced as provided in sections 3-36-1 through 3-36-7 New Mexico Statutes Annotated, 1978. Priority of the lien shall be determined from the date of filing.

B. Under process or order of court, a person shall not sell the property of a vendor without first ascertaining from the clerk or treasurer of the village in which the vendor is located the amount of any sports and recreation facility fees due. Sports and recreation facility fees due the village shall be paid from the proceeds of the sale before payment is made to the judgment creditor or any other person with a claim on the sale proceeds.

C. The clerk or treasurer of the village shall furnish a certificate of lien to a person applying for a certificate showing the amount of all liens in the records of the village against any vendor pursuant to the act. (Ord. 2008-04, 6-3-2008)

3-7-13: DISPUTE RESOLUTION:

A. If the vendor disputes the amount of the sports and recreation facility fee due to the village, it shall submit its complaint in writing to the village's administrator. If the dispute is not resolved within five (5) working days by the administrator, the vendor may submit its complaint in writing to the village council. If the dispute is not resolved within five (5) working days by the village council, the vendor may pursue any other remedies to which it is entitled.

B. The village may refund all or part of any sports and recreation facilities fee paid in error or to resolve a dispute. (Ord. 2008-04, 6-3-2008)

3-7-14: FINANCIAL REPORTING TO STATE:

The village administrator or designee shall report to the local government division of the department of finance and administration on a quarterly basis any expenditures of convention center fee funds. (Ord. 2008-04, 6-3-2008)

3-7-15: PENALTIES:

The penalties for violation of the act is a misdemeanor with a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days or both for a violation by any person of the provisions of this chapter for a failure to pay the fee or to remit the proceeds thereof to the village. (Ord. 2008-04, 6-3-2008)

TITLE 4

PUBLIC HEALTH AND SAFETY

CHAPTER 1

FIRE DEPARTMENT

SECTION:

4-1-1: Department Created

4-1-2: Fire Chief

4-1-3: Authority And Powers

4-1-4: Members Designated As Special Police

4-1-5: Obstructing Or Interfering With Firefighters

4-1-6: Penalties

4-1-7: Fire Code

4-1-1: DEPARTMENT CREATED:

There is created a department of the Village government to be known as the Fire Department. The firefighting organization which is organized as the Village Volunteer Fire Department and the combination of employees and volunteers of the Village so assigned are recognized as the existing Fire Department and a department of the Village. (Ord. 2017-05, 6-13-2017)

4-1-2: FIRE CHIEF:

The Mayor, with the advice and consent of a majority of all the members of the Village Council, shall appoint a Fire Chief who shall serve at the pleasure of the Governing Body. The Fire Chief shall receive a salary as provided in the Village budget. The Fire Chief shall report to the Village Manager on all matters concerning the administration of the Fire Department including, but not limited to: emergency medical services, field operations, planning, staffing, recruitment and retention, training, budgeting, and all matters for the development and improvement of the Fire Department. The Fire Chief shall advise on matters concerning the implementation and enforcement of Fire and Life Safety Codes as the enforcement officer/agency head. (Ord. 2017-05, 6-13-2017)

4-1-3: AUTHORITY AND POWERS:

The Fire Department shall have full and complete authority in connection with fighting any fire and responding to any emergency that may arise within the Village or outside the Village in any area the department is given responsibility to respond pursuant to ordinance, rule, regulation, statute or agreement. The department has the power to do and perform all necessary or expedient acts for the fighting of fire and mitigation of the emergency. When called to a fire or emergency scene, the Fire Department shall have full and complete authority of the premises to which it has been summoned until the fire has been extinguished and the emergency resolved and the premises are deemed safe by the Fire Department. (Ord. 2017-05, 6-13-2017)

4-1-4: MEMBERS DESIGNATED AS SPECIAL POLICE:

Every member duly enrolled and in good standing in the Fire Department shall be a special police officer of the Village with power to act as such from the time of the sounding of any emergency alarm until the apparatus and equipment for fighting fire or mitigating the emergency has been returned to the fire station. In addition, the Fire Chief has the authority to issue a written citation for any unauthorized vehicle parking in or obstructing a designated fire lane. (Ord. 2017-05, 6-13-2017)

4-1-5: OBSTRUCTING OR INTERFERING WITH FIREFIGHTERS:

It is unlawful for any person to obstruct, annoy or interfere with firefighters while in the discharge of their duties. (Ord. 2017-05, 6-13-2017)

4-1-6: PENALTIES:

Any violation of this chapter shall be subject to penalty as provided in section 1-4-1 of this Code. Every day that any such violation continues constitutes a separate offense. The penalty for parking in or obstructing a designated fire lane shall be a required appearance in Angel Fire Municipal Court and no less than a fifty dollar (\$50.00) fine, and each occurrence thereafter shall be a penalty left to the discretion of the Municipal Judge. (Ord. 2017-05, 6-13-2017)

4-1-7: FIRE CODE:

An ordinance adopting the 2009 edition of the International Fire Code. Regulating and governing, the safe-guarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substance, materials, and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the Village of Angel Fire; providing for the issuance of permits and collection of fees. This chapter shall meet or exceed the most current edition of the International Fire Code recognized by the State Fire Marshal's Office, a division of the New Mexico Public Regulation Commission. (Ord. 2017-05, 6-13-2017)

CHAPTER 2
FIRE HAZARDS ¹

SECTION:

4-2-1: Definitions

4-2-2: Open Fires And Fireworks Prohibited On Public Ways And Property

4-2-3: Fireworks

4-2-4: Open Fires

4-2-5: Ban On Open Fires And Fireworks

4-2-6: Fire Hazards During Drought Conditions

4-2-7: Improper Handling Of Fire

4-2-8: Enforcement

4-2-9: Penalties

Notes

¹ 1. See also section 5-2B-12 of this Code.1

4-2-1: DEFINITIONS:

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

AERIAL FIREWORKS DEVICE: Any device that, upon ignition, propels itself or an insert more than six feet (6') into the air.

GROUND AUDIBLE DEVICE: Any fireworks intended to function on the ground that produces an audible effect. This includes, but is not limited to, firecrackers of any type and size, cherry bombs, M-80s, and other exploding devices and any device producing a loud report, whistle or shriek.

OPEN FIRE: Any manner of burning, not in a device or chamber, designed to achieve combustion, where the products of combustion are emitted, directly or indirectly, into the open air.

PERSON: Any individual, firm, partnership, corporation, association, or any other entity owning, operating, controlling or occupying or inhabiting any house, residence, shop establishment, or other premises within the corporate limits of the Village of Angel Fire.

PREMISES: Any property within the Village and shall also mean, but not be limited to, business places, apartment houses, offices, theaters, hotels, residences, cafes, restaurants, eating places, tourist facilities, hospitals, schools, vacant lots and any other places or locations within the Village limits where flammable or combustible materials may accumulate.

PUBLIC NUISANCE: Knowingly creating or maintaining anything affecting any number of citizens without lawful authority which is either:

A. Injurious to public health, safety, morals or welfare; or

B. Interferes with the exercise and enjoyment of public rights, including the right to use public property. (Ord. 1999-04, 7-15-1999; amd. Ord. 2017-05, 6-13-2017)

4-2-2: OPEN FIRES AND FIREWORKS PROHIBITED ON PUBLIC WAYS AND PROPERTY:

Pursuant to the Village's rights and duty to protect its property, New Mexico Statutes Annotated section 3-18-1, its rights to have its parks under its immediate control, New Mexico Statutes Annotated section 3-18-18, and its duty and right to regulate the use of its streets, New Mexico Statutes Annotated section 3-49-1, it is unlawful to intentionally cause, create, tend or allow an open fire of any type, except a barbecue fire in an approved barbecue container manufactured specifically for that purpose, or display or discharge any fireworks of any kind, including, but not limited to, firecrackers, cherry bombs, M-80s, Roman candles, sky rockets, torpedo bombs, or any other type of pyrotechnic device in or on any Municipally owned property including buildings, parking lots, parks, recreation areas, streets, alleys, avenues, sidewalks, curbs, gutters or public grounds. (Ord. 1999-04, 7-15-1999)

4-2-3: FIREWORKS:

A. Possession And Sales:

1. Prohibited Fireworks: Pursuant to the Village's statutory power to regulate fireworks found in New Mexico Statutes Annotated sections 60-2C-7 and 3-18-11, it is unlawful to manufacture, sell, offer to sell, own, possess or discharge any aerial fireworks device or ground audible device within the limits of the Village.

2. Permitted Fireworks: The Village permits the sale and use of toy canes, toy guns, and other toys that use paper caps containing twenty five hundredths (25/100) grains or less of explosive compound.

B. Public Displays: The Village Council, with approval from the Village Fire Chief or Fire Chief's designee, may, on application, allow any Municipal or civic organization to conduct an officially supervised and controlled fireworks display in connection with any public celebration. The Village Council may further allow, on application, a licensed business to use blank cartridges in a controlled and supervised public display. (Ord. 1999-04, 7-15-1999)

4-2-4: OPEN FIRES:

Open fires are discouraged but permitted under the following circumstances with approval from the Village Fire Chief or Fire Chief's designee, on application, to allow any person or business to conduct an officially supervised or controlled burn for the following:

A. Recreation And Ceremonial Uses: Open fires are permitted for recreational and ceremonial purposes with the approval of the Village Fire Chief or Fire Chief's designee.

B. Natural Gas: Open burning of natural gas is permitted at a gasoline plant and compressor station and when used or produced in drilling, completion and work over operations of oil and gas wells when necessary to avoid serious hazard to safety.

C. Permits For Certain Fires: Subject to whatever conditions the New Mexico Environment Department and the Village may impose, open burning is permitted for the following purposes when permits are obtained from the Village Fire Department, with approval of Village Fire Chief or Fire Chief's designee: weed abatement; prevention of fire hazards; instruction and training of bona fide firefighting and fire rescue personnel; civil defense; conservation; disease and pest control; forestry management; land clearance that may include the ski area, golf course, hiking and greenbelts (1/2 acre or less) and other special circumstances.

1. Permit Required; Application: A written permit authorizing an open fire must be obtained from the Village Fire Department prior to commencing burning. Application for such permit may be made through the Fire Department Business Office during normal working hours. The following is required to obtain a permit authorizing an open fire:

a. A written permit must be obtained from the Village Fire Department. (Permit fees and stand-by fees may apply if the Fire Chief, or Fire Chief's designee, determines a need exists to officially supervise an open burn.)

b. Approval by the Village Fire Chief or Fire Chief's designee. (Ord. 2017-05, 6-13-2017)

(1) The Village Fire Chief or Fire Chief's designee may revoke a permit if changes in weather conditions or fire hazard warrants.

(2) In the event of any negligent act or omission of the requirements of this chapter at the scene of an open fire, the permit can be revoked by any Fire Department personnel or law enforcement officer on site. (Ord. 2004-02, 3-26-2004)

2. Conditions Of Permit: Any open fire permitted under this subsection must be maintained under the following conditions:

a. All fires must be under the control of and maintained by a responsible party; open fires must be attended at all times; for purposes of weed abatement or open burning of light timber, the burn pile may not exceed three feet by three feet by two feet tall (3' x 3' x 2'), must contain dry weeds only, or light timber must be no larger than two inches (2") in diameter and no larger than three feet (3') long. Only one (1) pile at a time may be burned and an extinguishment source (water hose or bucket, approved fire extinguisher) must be within fifteen feet (15') of the open burn; (Ord. 2017-05, 6-13-2017)

b. Responsible party must keep required permits available and present required permits to Fire Department personnel or a law enforcement officer upon request;

c. The emission of smoke shall not be allowed to pass onto or across a public road or landing strip such that a hazard is created by impairment of visibility; (Ord. 2004-02, 3-26-2004)

d. No natural or synthetic rubber or petroleum products may be burned; for the purpose of frost control in agricultural operations, natural petroleum products may be burned. Materials which are strictly prohibited from burning are:

(1) Hazardous or toxic materials (such as batteries, tires, plastic, and paint or chemical containers).

(2) Construction debris (such as treated lumber, insulated wires or insulation).

(3) Commercial, medical, or business waste. (Ord. 2017-05, 6-13-2017)

(4) Any type of standing structure (except as allowed for fire agency training exercise).

(5) Any materials that produce excessive smoke (such as large stumps, root balls, trunks and materials that are larger than 8 inches in diameter).

e. Care must be taken to minimize the amount of dirt on the material being burned; (Ord. 2004-02, 3-26-2004)

f. All burning must take place between one-half (1/2) hour after sunrise and one-half (1/2) hour before sunset; (Ord. 2017-05, 6-13-2017)

g. The materials to be burned must be as dry as possible; and

h. Require standby firefighting apparatus at all times. The Fire Chief or his designee must preapprove the private firefighting apparatus and personnel. The Fire Chief or designee shall approve all firefighting apparatus and personnel.

3. Fees: The Village shall impose a fee for the issuance of permits and apparatus.

a. A permit fee schedule will be maintained by the Angel Fire Fire Department and approved by the Governing Body.

b. Apparatus fee schedule will also be maintained by the Angel Fire Fire Department and approved by the Governing Body.

c. Apparatus fees will only apply when Angel Fire Fire Department equipment is used. (Ord. 2004-02, 3-26-2004)

4-2-5: BAN ON OPEN FIRES AND FIREWORKS

A. Ban Authorized: Pursuant to the Village's powers and duties to adopt regulations for the prevention of fire and regulate the use of illuminating flames and bonfires found in New Mexico Statutes Annotated section 3-18-11, the Village Fire Chief or Fire Chief's designee shall monitor the fire danger in the Village and the surrounding forest. When the Fire Chief specifically finds that the fire danger is such that the use of open flames or fires would create an imminent danger to citizens, visitors or property, the Fire Chief shall issue a notice which imposes a ban on open fires and the sale or use of fireworks.

B. Notice And Effect Of Ban: Notice of the ban shall be prominently posted in public places in the Village including the Fire Department and the Village Hall. The ban shall be effective upon posting.

C. Activities Restricted:

1. During such ban, it will be unlawful within the Village limits to intentionally cause, create, tend or allow an open fire of any type, except a barbecue fire in an approved gas grill manufactured specifically for that purpose. (Ord. 1999-04, 7-15-1999)

2. Except for welding or soldering torches and other similar hand held tools or equipment used inside an appropriate business or building, it shall also be unlawful, during the ban, to cause or create any type of open flame or spark that emanates more than two inches (2") from the source. (Ord. 2017-05, 6-13-2017)

3. During such ban, it shall also be unlawful to sell or discharge any type of fireworks whatsoever in the Village. (Ord. 1999-04, 7-15-1999)

D. Review Of Fire Dangers; Ban Lifted:

1. Once a ban is in place, the Fire Chief or Fire Chief's designee shall review the fire danger within thirty (30) days of the date of the ban to determine whether the fire danger has subsided and the ban should be lifted.

2. The Fire Chief or Fire Chief's designee can lift the ban at any time he or she shall determine that the danger has subsided. (Ord. 2017-05, 6-13-2017)

3. The Fire Chief or Fire Chief's designee shall prominently post notice of any extension of the ban in public places in the Village including the Fire Department and Village Hall. The extension shall be effective upon posting. (Ord. 1999-04, 7-15-1999; amd. Ord. 2017-05, 6-13-2017)

E. Appeals: Any aggrieved person may appeal the Fire Chief's finding to the Village Council. Such appeal shall be in writing, shall be filed with the Village Clerk no later than two (2) business days after posting, and will be decided at or before the next regularly scheduled Council meeting. Any ban that is appealed shall remain in effect during the pendency of an appeal. (Ord. 1999-04, 7-15-1999)

Notes

1. See also section 4-2-6 of this chapter.1:

4-2-6: FIRE HAZARDS DURING DROUGHT CONDITIONS

A. Purpose And Authority: The Governing Body, during certain periods of time, when the condition of fire hazard exists, may declare this section enforceable by resolution. Now, therefore, be it resolved that any activity that could potentially cause a fire is hereby prohibited by posting of said resolution. Such resolution, when adopted, shall be posted in at least six (6) public places in the Village and shall be effective immediately upon such posting, and shall remain in effect until such resolution is either rescinded or superseded by another resolution of the Governing Body. No further notice shall be required to charge a violation of this section.

B. Prohibitions: The following are specifically prohibited upon adoption of the resolution enforcing this section:

1. Use of trail bikes, chain saws and ATVs in the Village without a spark arrester.
2. Any other activity that is deemed as a fire hazard, i.e., any outdoor welding except with permission from the Village Fire Chief and with a fire extinguisher (ABC) on site.
3. All fireworks per section 5-2B-12 of this Code.
4. Outside smoking is restricted to designated and equipped areas, within structures or within vehicles equipped with ashtrays. Open fires and campfires are restricted to developed campgrounds or areas designated in writing by the Village Fire Chief. Any discarding of lit or unlit cigarettes will be in violation of this section.

5. Open burning, i.e., burning of cropland, fields, rangeland, debris, and slash piles, prescribed burning or weed burning, is prohibited. Charcoal broilers or grills and wood and coal stoves used outside of dwellings are classified as campfires and are prohibited except in developed campgrounds or areas designated in writing by the Village Fire Chief.

C. Exemptions: Exempt from this section is any Federal, State or local officer or member of an organization or firefighting force doing any act prohibited herein in the performance of an official duty, with the approval of the Village Fire Chief. (Ord. 2002-05)

D. Violation; Penalty: Violation of this section is a petty misdemeanor and may be punishable as provided in section 1-4-1 of this Code. (Ord. 2002-05; amd. 2003 Code)

Notes

1. See also section 4-2-5 of this chapter.1:

4-2-7: IMPROPER HANDLING OF FIRE

Improper handling of fire consists of the following; provided, that nothing herein shall constitute improper handling of fire where the fire is a backfire set for the purpose of stopping the progress of a fire then actually burning:

A. Setting fire, or causing or procuring a fire to be set, to any inflammable vegetation or forest material growing or being on the lands of another without the permission of the owner thereof;

B. Allowing fire to escape or spread from the control of the person having charge thereof without using reasonable and proper precaution to prevent such fire from escaping or spreading;

C. Burning any inflammable vegetation or forest material, whether upon his own land or that of another person, without using proper and reasonable precaution at all times to prevent the escape of such fire;

D. Leaving any campfire burning and unattended upon lands of another person; or

E. Causing a fire to be started in any inflammable vegetation or forest material growing or being upon lands of another person by means of any lighted cigar, cigarette, match or other manner, and leaving such fire unquenched. (Ord. 1992-02, 6-22-1992)

1. See title 5, chapter 2 of this Code for penalty and general provisions.1:

4-2-8: ENFORCEMENT:

Any Village police officer or the Village Fire Chief or Fire Chief's designee, upon observing burning within the Village, if such is prohibited by this chapter or the person committing or permitting does not have the proper permits and approval to do so as required by this chapter, shall issue a citation or cause a complaint to be filed in the Municipal Court. (Ord. 1999-04, 7-15-1999)

4-2-9: PENALTIES:

The penalties for any violation of this chapter are as provided in section1-4-1 of this Code. (Ord. 1999-04, 7-15-1999; amd. 2003 Code)

CHAPTER 3

SOLID WASTE MANAGEMENT

SECTION:

4-3-1: Short Title

4-3-2: Purpose

4-3-3: Definitions

4-3-4: Prohibited Acts

4-3-5: Collection Of Solid Waste

4-3-6: Transfer And Disposal Of Solid Waste

4-3-7: Waste Diversion And Recycling

4-3-8: Rate Payer Classifications And Obligations

4-3-9: Rates, Fees And Deposits

4-3-10: Liens

4-3-11: Slash Program

4-3-12: Enforcement And Penalties

4-3-1: SHORT TITLE:

This chapter may be cited as the *SOLID WASTE MANAGEMENT ORDINANCE*. (Ord. 2001-08, 7-27-2001)

4-3-2: PURPOSE:

A. To define practices for an integrated solid waste management system for the village including, but not limited to, waste reduction, recycling and diversion, collection, transfer, transport and disposal. Such system and practices are set forth to protect the environment, health, safety and general welfare of the residents of the village.

B. To establish minimum standards and requirements for the collection, transfer, transport and disposal of solid waste generated within the service area. (Ord. 2001-08, 7-27-2001)

4-3-3: DEFINITIONS:

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

ASHES: Residue from the burning of wood, coal, coke, or other combustible materials.

BACK YARD COMPOSTING: Composting household organic matter in a confined space within personal property boundaries.

BULK LIQUIDS: Any liquids to be disposed of that are in a volume greater than one gallon.

BURNING: Any form of incineration of solid waste.

COLLECTION: The systematic and regular removal of solid waste from property and its transfer or transport to a designated solid waste facility for disposal.

COMPOST: Organic matter produced from solid waste which has undergone a controlled process of decomposition and pathogen reduction, and has been stabilized to a degree which is potentially beneficial to plant growth and which is used as a soil amendment, growing medium amendment or other similar uses.

COMPOSTING: The process by which biological decomposition of organic solid waste occurs under controlled conditions.

The process stabilizes the organic fraction into a material that can be easily and safely stored, handled and used in an environmentally acceptable manner.

CONSTITUENT: Serving to form, compose, or make up a unit or whole component.

CONSTRUCTION AND DEMOLITION DEBRIS: Materials generally considered not to be water soluble and nonhazardous in nature including, but not limited to, steel, glass, brick, concrete, asphalt, roofing materials, pipe, gypsum wallboard and lumber from the construction or demolition of a structure, and includes rocks, soil, tree remains, trees and other vegetative matter that normally result from land clearing. "Construction and demolition debris" does not include asbestos or liquids including, but not limited to, waste paints, solvents, sealers, adhesives or potentially hazardous materials.

CONTAINER: Authorized public or private receptacles designed for intermediate storage of solid waste until such time refuse is collected. This term shall also mean containers designated for the intermediate storage of recyclable materials.

CUSTOMER: Residential or nonresidential persons who receive solid waste disposal service from the village of Angel Fire. See also definition of User.

DAY: Calendar day unless otherwise described.

DEBRIS: The unwanted or unusable remains of something broken down or destroyed.

DUMPING: A. Disposing of solid waste or any other discarded material on property within the village which is private including, but not limited to, privately owned or controlled dumpsters, parking lots and vacant lots.

B. Disposing of solid waste or discarding any other items on a public place or on public property or facility which shall include, but is not limited to, the entire width between the boundary lines of every way publicly maintained for the purpose of vehicular travel.

C. Allowing refuse to collect or accumulate on any privately owned lot or other premises within the village of Angel Fire.

FACILITY: Real estate or building used for a particular function.

GARBAGE: Unwanted or unusable waste products or unused materials to include, but not be limited to, food, offal, ashes, wastepaper, trash, rubbish, and waste or unwholesome materials generated during the consumption of resources.

GOVERNING BODY: The governing body of the village of Angel Fire.

HAZARDOUS WASTE: Waste which, because of its concentration or physical, chemical or infectious characteristics, may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed, other than household hazardous waste.

HOT WASTE: Any waste that is on fire or smoldering.

MIXED NONRESIDENTIAL SOLID WASTE: Any combination of nonresidential solid waste.

MULTI-FAMILY RESIDENTIAL: Residential apartment or condominium dwelling units.

NONRESIDENTIAL RECYCLABLES: Recyclables generated by stores, offices, restaurants, hotels or motels, warehouses, and other manufacturing and nonmanufacturing activities.

NONRESIDENTIAL SOLID WASTE: All types of solid waste generated by, but not limited to, stores, offices, restaurants, hotels or motels, warehouses, and other manufacturing and nonmanufacturing activities, excluding household and hazardous solid wastes.

PERSON: Individual, corporation or other legal entity that is responsible for or owns a dwelling, hotel unit or commercial facility against which refuse rates are applied.

PROCESSING: Techniques to change the physical, chemical or biological character or components of solid waste, other than composting.

RECYCLABLE MATERIALS: Items which can be reused or reprocessed for reuse. Such items may include, but are not limited to, corrugated cardboard, paper, aluminum, steel, metals, glass, wood, plastic, and cloth.

RECYCLING: Any process by which recyclable materials are collected, separated and processed and reused or returned to use in the form of raw materials or products.

REFUSE: See definition of Solid Waste.

REFUSE RATE AND FEE SCHEDULE: The listing of fees and charges for solid waste collection, transfer, transport and disposal services provided by the village.

RESIDENTIAL SOLID WASTE: Solid waste or garbage derived from households including single and multiple residents, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas, but excluding large items which include, but are not limited to, white goods, demolition materials, etc.

RESIDENTIAL UNIT: A dwelling unit.

SCAVENGING: The removal of any solid waste or recyclables from a transfer facility or from private or public containers in a

manner not authorized by the village.

SERVICE AREA: That area within the corporate limits of the village of Angel Fire and any additional area beyond those limits within which the governing body authorizes the collection of solid waste.

SLASH: Waste generated from the cleanup of forested areas or yard.

SOLID WASTE: Garbage, refuse, litter, yard waste, white goods, construction and demolition debris and other discarded solid materials, including those from industrial, commercial and agricultural operations and from community activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flow, nor hazardous, infectious, or radioactive materials which the village is prohibited by law from accepting.

SOLID WASTE ENTERPRISE FUND: The fund created by the village of Angel Fire for dealing with the revenues and expenses associated with the collection, diversion, recycling, reduction, transfer, transport and disposal of solid waste including, but not limited to, operations, capital improvements and debt service.

SOLID WASTE FACILITY: Any real estate or structure or group of structures designated to facilitate the collection, processing, treatment, handling, transfer, transport and disposal of municipal solid waste.

TRANSFER FACILITY: A facility in which various types of solid waste are received and then placed in other vehicles for transport to another solid waste facility for disposal.

TRASH: See definition of Solid Waste.

USER: See definition of Customer.

VILLAGE: The village of Angel Fire, Colfax County, New Mexico.

WHITE GOODS: Large household appliances such as refrigerators, stoves, washing machines, air conditioners, swamp coolers and the like that are received as waste by the village.

YARD WASTE: Vegetative or organic matter resulting from landscaping, land maintenance and land clearing operations. (Ord. 2001-08, 7-27-2001; amd. Ord. 2023-04, 5-23-2023)

4-3-4: PROHIBITED ACTS:

The following actions with regard to solid waste are hereby prohibited.

- A. Burning.
- B. Dumping.
- C. Placing solid waste in any container or areas other than those specifically designated or approved by the village for collection or disposal.
- D. Transporting solid waste to a solid waste facility without securing or covering the load so as to prevent leakage, littering ¹
- E. Scavenging.
- F. Depositing of hot waste into any container or enclosure designated for refuse collection.
- G. Presenting to the village for disposal infectious waste, hazardous waste, flammable or explosive refuse, radioactive waste or other contaminated materials which by law or regulation must be properly disposed of by a specially licensed or equipped person, or which requires a solid waste facility specifically authorized for this purpose.
- H. Placing furniture, mattresses, large tree limbs, tires, engine parts, white goods, or other large items at the curbside or in waste containers.
- I. Disposing of bulk liquids. (Ord. 2001-08, 7-27-2001)

Notes

¹ 1. See section 5-2C-12 of this code.1, blowing, or other form of loss while in transit.

4-3-5: COLLECTION OF SOLID WASTE:

A. Authority:

1. The village and/or its duly authorized agents or employees shall have the exclusive right within the service area to collect or gather solid waste, with the exception of nonresidential recyclables, dead animals, hazardous wastes or such materials which the village is prohibited by law from collecting or disposing. No person or organization may sell within the service area any services for the systematic and routine collection, transportation or disposal of garbage, trash or refuse except for nonresidential recyclables, dead animals, hazardous wastes and other such materials which the village is prohibited by law from collecting or disposing.

2. The village and its duly authorized agents shall have the exclusive right to collect or gather residential recyclables.

3. The village reserves the right at any time to refuse to collect or receive waste if, in the judgment of the village, such collection is deemed to be harmful, hazardous or in violation of village and state regulations governing type of waste, weight or waste constituents. The village shall inform the person responsible for such waste and shall require compliance with this chapter.

B. Containers Generally:

1. Village Owned Containers: Containers are distributed at locations designated by the village.

2. Containers Not Owned By Village:

a. The use of containers not owned by the village shall be approved by the village prior to use.

b. Maintenance of containers not owned by the village shall be the sole responsibility of the owner of the container.

3. Use: Customer shall keep all refuse within private premises until the time when the customer places the solid waste in a village approved container.

4. Types Of Collection Service: Collection from containers shall include, but not be limited to, service to front loading, rear loading and roll off containers and carts.

C. Roll Off Containers: The following provisions apply to roll off containers:

1. Customer service requests shall include the size and type of container to be used as well as the frequency of service. Request shall be made in writing to the village.

2. The customer or customer's representative shall complete a written request to the village for cancellation of service or to request long term or permanent changes in service.

3. Requests for additional special services such as the placement of a roll off may be made by phone to the village during normal business hours. The village will make reasonable efforts to ensure placement is made within three (3) working days of the request. (Ord. 2001-08, 7-27-2001)

D. Site And Enclosures: The specific site and enclosure for the placement of any refuse container shall be consistent with the standards of the village. The village shall not be responsible for damage to enclosures or containers that are not designed or constructed in accordance with standards of the village.

E. Access To Enclosures And Containers; Obstructions:

1. Enclosures and containers shall be kept free of any blockage or obstruction.

2. Locked enclosure gates must be unlocked and opened by the customer on the day designated for collection.

3. In the event a container or access to the container is blocked and the container cannot be emptied on the same day as the originally scheduled service, an additional fee shall be assessed if a subsequent service visit is necessary.

4. During winter months, the area leading to the enclosure or container on private property shall be kept clear of snow and ice at the customer's expense.

F. Maintenance And Repair Of Containers:

1. Village Owned Containers: Village owned containers in need of repairs due to normal wear and tear shall be repaired or replaced at the village's discretion.

2. Privately Owned Enclosures And Containers:

a. Maintenance of the enclosure and privately owned containers shall be the responsibility of the owner.

b. Privately owned containers shall be the sole responsibility of the owner. Repairs of such containers shall be made within fifteen (15) days upon customer being notified by the village of the needed repairs. In the event that the needed repairs present endangerment to village employees or agents in the collection of waste, the village may suspend service until the container is repaired or replaced.

3. Failure To Repair: Service may be suspended for enclosures or containers that are in a state of disrepair that may cause unsafe conditions for the collection personnel.

G. Overfilling Containers:

1. Containers shall be loaded so as to allow the lid to close completely.

2. The customer shall clean refuse spills around the container.

3. The village may require an increase in service frequency as a condition of service where containers are routinely overfilled. (Ord. 2001-08, 7-27-2001)

4-3-6: TRANSFER AND DISPOSAL OF SOLID WASTE:

A. Eligible Users Of Waste Transfer Facilities: Waste may be received at a village transfer facility from the following

sources:

1. Village refuse collection vehicles.
2. Personal passenger vehicles and light trucks and attached trailers carrying mixed residential solid waste which originates within the boundaries of responsibility for the village solid waste collection.
3. Commercial and other vehicles carrying mixed nonresidential solid waste that originates within the boundaries of responsibility for the village solid waste collection.

B. Conditions Of Service And Use Of Waste Transfer Facilities:

1. Wastes To Comply With Village And State Regulations:
 - a. The village shall not accept wastes that are not in compliance with state and village regulations. This shall include, but not be limited to, animal carcasses and other wastes needing immediate or witnessed disposal, infectious, hazardous or radioactive materials, bulk liquids, hot waste, flammable or explosive refuse and commercial or industrial vehicle tires.
 - b. Vehicles may be subject to inspection prior to entry into the facilities to confirm that materials can be legally accepted for transfer and transport by the village.
2. Days And Hours Of Service For Certain Goods: The village may restrict the acceptance of certain goods to designated days and hours.
3. Fees For Certain Wastes: Persons delivering waste, other than household solid waste or municipal solid waste, shall be subject to the imposition of fees in accordance with the refuse rate and fee schedule.
4. Nonresidential Waste Delivered By Other Than Personal Vehicle: Persons using other than personal vehicles for the delivery of nonresidential solid waste may establish a service account with the village prior to use of the facilities. The village may require security deposits and other financial guaranties of fee payment as precondition to the establishment of an account.
5. Delinquent Account: The village shall prohibit use of the facilities by those persons whose service account is delinquent for more than thirty (30) days. Resumption of disposal shall occur upon payment in full of unpaid balances including penalties and interest. (Ord. 2001-08, 7-27-2001)

4-3-7: WASTE DIVERSION AND RECYCLING:

- A. Village Policy: The village shall promote the waste reduction and diversion to the maximum extent possible. It shall implement diversion practices where feasible including, but not limited to, the collection of recyclable materials from residential and nonresidential sources, and safe disposal of household hazardous waste.
- B. Conditions Of Waste Reduction And Recycling:
 1. List Of Recyclable Materials And Methods: A list of materials recommended for recycling and recommended methods of recycling shall be periodically updated by the village, and the list shall be broadly distributed.
 2. Containers Identified: Containers for recyclable materials shall be clearly identified and distinguishable from containers used for solid waste collection.
 3. Storage Of Recyclables: Storage of recyclable materials prior to collection shall not create a nuisance or condition that may adversely affect public health.
 4. Composting: Back yard composting and related forms of organic waste diversion or reduction shall be conducted in a manner that does not violate state or village laws or regulations and does not create a nuisance or condition which may adversely affect public health. (Ord. 2001-08, 7-27-2001)

4-3-8: RATE PAYER CLASSIFICATIONS AND OBLIGATIONS:

- A. Assessments And Fees Applicable To Property Owners And Registered Businesses: There is assessed against every person owning any improved real property or holding a business registration in the village monthly and other special refuse collection and disposal fees payable to the village. (Ord. 2001-08, 7-27-2001; amd. 2003 Code)
- B. Classification And Obligations Established: Classification and obligations are described herein, and the following classifications for municipal solid waste collection, transportation and disposal are hereby established for customers within the village service area:
 1. Residences: A solid waste fee shall be billed monthly to, and paid monthly by, each person owning improved real property (residential).
 2. Hotels: A solid waste fee per hotel unit shall be billed monthly to, and paid monthly by, each person owning or controlling such hotel units. (Ord. 2001-08, 7-27-2001)
 3. Commercial Businesses:
 - a. A monthly fee shall be billed monthly to, and paid monthly by, each person occupying a commercial business which produces or could produce solid waste, and/or those commercial businesses holding a business registration. (Ord. 2001-08, 7-27-2001; amd. 2003 Code)

b. Customers who currently have or in the future make an application for a commercial charge account will be billed an annual fee for the purpose of partially defraying the costs of billing and collections.

4. Tires: A special tire disposal fee shall be billed to, and paid by, each person or company disposing of tires unless tires are cut into quarters (4 equal pieces).

5. Use Of Transfer Facilities:

a. Any person using a personal passenger vehicle or light truck and attached trailer may transport mixed residential solid waste to the village transfer facility; provided, that such waste has been generated from a residence located within the boundaries of responsibility for the village solid waste collection, and further provided, that the disposer satisfies the conditions of service defined in this chapter.

b. Any person using a commercial or other vehicle may transport mixed nonresidential waste to the village transfer facility; provided, that such waste has been generated within the boundaries of responsibility for the village solid waste collection, that it is conveyed as required by this chapter, and further provided, that the disposer satisfies the conditions of service defined in this chapter. The fee for this service shall be based upon the cubic yard volume of the material disposed.

c. All solid waste delivered to the village solid waste facility must be secured by means of a tarp, rope or straps to prevent the scattering, blowing, dropping, spillage or any other form of littering on any public right of way. Any load brought to the facility that is not secured so as to prevent any type of littering will be charged double the disposal fee. During the village free disposal weeks, any unsecured load will be charged double the normal fee for slash disposal.

C. Free Service: No village service related to solid waste shall be provided without charge except as provided by this chapter, as approved by council or through a court order or settlement. No amounts owed may be abated. Village billings determined to be in error will be corrected.

D. Rental Properties: Owners in charge of rental property shall be responsible for the payment of the charges assessed in this chapter, and such properties shall be subject to the lien and other collection provisions of this chapter. Delinquency notices will be sent to both the landlord and the renter. (Ord. 2001-08, 7-27-2001)

E. Applicable Taxes Included With Bill: All applicable taxes will be included in the monthly bill as allowed by the gross receipts and compensating tax act, New Mexico Statutes Annotated section 7-9-4. (Ord. 2001-08, 7-27-2001; amd. 2003 Code)

4-3-9: RATES, FEES AND DEPOSITS:

A. Deposits: Deposits may be required by the village and shall be paid by the applicant for solid waste collection service at the time of application for service, for the purpose of a guarantee of payment of accounts and damage.

B. Rates And Fees Established: All refuse services provided by the village are subject to the refuse rate and fee schedule established by council resolution.

C. Annual Rate Increase: Effective each year, on July 1, solid waste rates shall be increased the amount indicated on the CPI report for the end of the previous calendar year. The first CPI increase shall become effective July 1, 2001. (Ord. 2001-08, 7-27-2001)

D. Returned Check Fee: All returned checks will result in an additional service charge of twenty five dollars (\$25.00). (Ord. 2001-08, 7-27-2001; amd. 2003 Code)

E. Disposition Of Revenues: For the purpose of defraying all expenses of collection, diversion, recycling, reduction, transfer, transport and disposal of refuse, the solid waste enterprise fund is established. The governing body shall establish and periodically amend service rates and charges that recover the full costs for each class of service rendered. The revenue received from these rates shall be credited to the solid waste enterprise fund. Money from this fund shall pay all direct, indirect and bond service expenses of the solid waste management operation.

F. Payment Of Bills: All service fees and charges shall be payable in the manner designated by the village. Payments are due within twenty (20) days following each monthly billing or as the village may authorize. (Ord. 2001-08, 7-27-2001)

G. Delinquent Payments:

1. The village shall impose a monthly penalty assessment of one and one-fourth percent (1.25%) on the twenty first day following each monthly billing for those accounts that are not paid in full. (Ord. 2001-08, 7-27-2001; amd. 2003 Code)

2. Customers or licensed contractors whose refuse collection or disposal account is delinquent shall not be awarded contracts or otherwise authorized to do business with the village until the account is paid in full. (Ord. 2001-08, 7-27-2001)

4-3-10: LIENS:

A. Notice Of Lien: The village shall send a thirty (30) day notice of intent to file a lien containing the following information:

1. The name of the owner, if known, of the parcel of real estate being assessed.
2. A description of the parcel of real estate being assessed.
3. The amount assessed against each parcel of real estate.

B. Appeals: Any persons aggrieved by the decision of the village may submit written petition for appeal. Such petition for

appeal shall:

1. Be submitted to the office of the finance director within thirty (30) days of the date of lien notice.
2. Set forth that such proceedings or assessments were in error, in whole or in part, specifying the grounds of the appeal. (Ord. 2001-08, 7-27-2001)

4-3-11: SLASH PROGRAM:

Objective: The primary objective of the slash disposal program is to assist Village property owners in their wildfire preparedness. The Village is committed to becoming a Fire Adapted Community and taking action to mitigate wildfire risks throughout the community before a wildfire occurs.

- A. The slash program is for Angel Fire residents only. No slash will be accepted from outside the village limits.
- B. The program for slash pickup is active from April 1st (weather dependent) until October 1st (weather dependent).
- C. All persons thinning inside the Village of Angel Fire are required to have a slash permit.
- D. Any slash over four inches (4") in diameter must be de-limbed and cut into lengths of no more than six feet (6') long. Also, any slash over five inches (5") in diameter must be piled separately from the smaller slash for pick up. No slash over six feet (6') in length or piled higher than eight feet (8') will be picked up.
- E. Slash for pickup should be placed where the driver can safely pick it up. Spacing between piles should be no less than two feet (2'). Slash put out for pickup should not be placed under or on top of exposed wires and not closer than four feet (4') from water meters, fire hydrants, and/or cable, telephone, broadband or electric pedestals. Piles should be a minimum of fifteen feet (15') from any intersection. Slash piles must be placed in front of the Jot of origin and cannot be placed in front of or on other properties not owned by the person clearing the lot. No slash shall be placed in the road or drainage area.
- F. Pine needles are not part of the slash program. Pine needles should be brought into the transfer station where they will need to be disposed of for a fee.
- G. Stumps are NOT part of the slash program. Stumps should be brought into the transfer station and a fee paid, no stumps over ten inches (10") in diameter will be accepted at the transfer station.
- H. Contaminated loads are anything that is brought into the Fire Department that are not a part of the slash program including but not limited to rocks, dirt, trash, etc. Contaminated loads will not be accepted as part of the slash program. Contaminated loads brought into transfer station will be charged for the full load not just the contamination in the load.
- I. Any material too small for the grapple to pick up will be the property owner or his contractor's responsibility to clean up.
- J. Any thinning before or after the beginning and shut off dates must be kept inside the lot of origin. All thinning that is being called in for Village pick up should be completed and called in before October 1st (weather dependent) anything placed in the right of way after that will be considered a violation.
- K. Contaminated slash WILL NOT be picked up by the Village of Angel Fire.
- L. All contractors doing slash removal or thinning in the village limits are required to have a charge account with the Village of Angel Fire.
- M. If a suitable location for slash placement cannot be determined by the Fire Department, the slash must be transported by the property owner or a private contractor to the Slash pit.
- N. Slash pickup of slash resultant from property owners contracting for slash removal, wildfire fuel reduction or other such thinning projects will be set by an annual policy originating with the Fire Chief and approved by the Village Manager. The policy shall be published no later than March 1st of each year. Amendments to the policy shall be published a minimum of forty-five (45) days prior to implementation and enforcement.
- O. Contractors transporting slash to the Fire Station 3 shall provide proof of contract with the property owner which includes the location/address of work performed.
- P. Depending on the size of the pile and the condition of the land, on site chipping may occur, with the slash pile. This will be discussed with the property owner prior to any chipping taking place. (Ord. 2020-02, 7-28-2020; amd. Ord. 2023-04, 5-23-2023)

4-3-12: ENFORCEMENT AND PENALTIES:

- A. Notice Of Violation; Time For Compliance; Citation: In the event of a violation of this chapter or of any administrative order issued hereunder, the village may serve upon the violator a written notice. Within fourteen (14) days of receipt of this notice, the user shall provide to the village a written response and a plan for specific corrective actions. If, at the end of the fourteen (14) day period, the violation has not been corrected or a written plan for corrective actions has not been submitted to the village, the village may issue a citation. Such citation shall carry penalties equal to that of a misdemeanor. Subsequent violations of a similar nature shall be subject to citation without prior notice.
- B. Additional Remedies: The village shall have such other remedies for collection of fines and penalties as allowed by village ordinance or as may be allowed by state statutes.
- C. Judicial Enforcement Of Penalties:

1. Injunctive Relief: The village shall seek injunctive relief to the extent allowed by law against persons who persist in violating this chapter or orders issued by the village hereunder. (Ord. 2001-08, 7-27-2001)

2. Criminal Prosecution: Violation of this chapter is subject to enforcement pursuant to New Mexico Statutes Annotated section 3-17-1C(1) and as may be otherwise allowed by law. (Ord. 2001-08, 7-27-2001; amd. 2003 Code)

D. Appeals:

1. Appeals To Village Administrator:

a. Persons may appeal a notice of violation, fines or other administrative actions, with the exclusion of liens¹, of the village within fourteen (14) days of receipt of the notice of violation or administrative action. Appeals shall be addressed to the office of the village administrator or his designee. They shall provide the following information:

- (1) The factual basis for the appeal; or
- (2) The legal basis for the appeal; and
- (3) The desired or requested action or outcome.

b. Upon receipt of the request, the village shall review the request. Within ten (10) days, the village shall inform the customer in writing of the village's determination. The village shall either reaffirm the action or issue a revised determination.

2. Appeals To Governing Body: Within fourteen (14) days of the village's determination, the customer may submit to the governing body a written appeal of the village's action. Such appeal shall be in writing and addressed to the village administrator. The governing body shall hear the appeal at its next regular meeting and shall render a decision within thirty (30) calendar days. The decision of the governing body shall be final and binding. (Ord. 2001-08, 7-27-2001)

Notes

- ¹ See subsection 4-3-10B of this chapter for lien appeal provisions.

CHAPTER 4

SNOW SKIERS

SECTION:

4-4-1: Short Title

4-4-2: Definitions

4-4-3: Prohibited Acts

4-4-4: Collisions; Duties Of Skiers

4-4-5: Violation; Penalties

4-4-1: SHORT TITLE:

This chapter shall be known as the *SNOW SKIER RESPONSIBILITY ACT* of the village. (Ord. 1989-11, 12-7-1989)

4-4-2: DEFINITIONS:

The following words and phrases, when used in this chapter, shall be construed to have the following meanings:

INJURY: Any personal injury, death or property damage or loss suffered by a skier.

PASSENGER: Any person riding or otherwise using a ski lift.

POLICE CHIEF: The village police chief, his agents or employees.

SKI AREA: The property owned, leased or under the control of a ski operator within the village.

SKI AREA OPERATOR: Any persons, partnership, corporation or other commercial entity and its agents, officers, employees or representatives which have responsibility for any ski area or ski lift.

SKI LIFT: Any device operated by a ski area operator to transport passengers from one point to another within a ski area.

SKI PATROL: That certain group of employees of the ski area operator designated as the ski patrol.

SKIER/SNOWBOARDER: Any person utilizing a ski area for the purpose of skiing, both alpine and Nordic, or any person who is within the boundaries of a ski area for the purpose of observing any skiing activity. (Ord. 1989-11, 12-7-1989; amd. 2003 Code)

4-4-3: PROHIBITED ACTS:

A. Reckless Skiing: No skier shall ski in a reckless or negligent manner so as to endanger the life, limb or property of any person, his own or of another. Each skier has the additional duty to ski in a safe and reasonable manner and under sufficient control to be able to stop or avoid other skiers or objects such as grooming equipment, vehicles, lift towers, signs and any other equipment within the ski area.

B. Entering Closed Areas: No skier, except a member of the ski patrol, police chief or ski area operator in the course of his employment, shall enter or go upon any closed area.

C. Crossing Ski Area Boundary: No skier shall cross any ski area boundary.

D. Removing Or Destroying Closed Area Signs Or Other Designations: No skier or other person, except a member of the ski patrol or employee of the ski area operator or police chief, in the course of his employment, shall remove, tear down, mutilate, deface, damage or destroy any sign or other closed area designator erected by the ski patrol, ski area operator or police chief to designate a closed area. (Ord. 1989-11, 12-7-1989)

4-4-4: COLLISIONS; DUTIES OF SKIERS:

Any skier involved in a collision with another skier or person in which an injury results shall immediately do the following:

A. Stop at the scene of such collision and render to any skier or person injured in such collision reasonable assistance;

B. Notify or cause to be notified a member of the ski patrol about the collision and injury;

C. Remain at the scene of the collision with the injured skier or person until a member of the ski patrol arrives; and

D. Give his name and current address to a member of the ski patrol before leaving the scene of the collision. (Ord. 1989-11, 12-7-1989)

4-4-5: VIOLATION; PENALTIES:

Any person who violates any of the provisions of this chapter is guilty of a petty misdemeanor and shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this code for each violation. (Ord. 1989-11, 12-7-1989; amd. 2003 Code)

CHAPTER 5

CLEAN INDOOR AIR

SECTION:

4-5-1: Short Title

4-5-2: Purpose

4-5-3: Definitions

4-5-4: Smoking Prohibited

4-5-5: Smoking Permitted Areas

4-5-6: Prohibition Of Smoking Near Entrances, Windows And Ventilation Systems

4-5-7: Responsibilities Of Employers

4-5-8: Posted Smoke Free And Smoking Permitted Areas

4-5-9: Enforcement

4-5-10: Violations

4-5-11: Penalties

4-5-12: Nonretaliation; Nonwaiver

4-5-1: SHORT TITLE:

This chapter may be cited as the *VILLAGE OF ANGEL FIRE CLEAN INDOOR AIR ORDINANCE* (Ord. 2007-05, 8-14-2007)

4-5-2: PURPOSE:

Whereas one of the duties of government is to protect the public health, safety and welfare of its citizens, the village of Angel Fire's governing body recognizes environmental tobacco smoke as detrimental to the public health and declares as the purpose of this chapter to protect the public health and safety by prohibiting smoking in indoor public places and indoor workplaces. (Ord. 2007-05, 8-14-2007)

4-5-3: DEFINITIONS:

As used in this chapter:

BAR: An establishment that is devoted to the selling or serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of those beverages, including taverns,

nightclubs, cocktail lounges and cabarets.

CIGAR BAR: An establishment that:

A. Is a "bar" as defined in this section; and

B. Is engaged in the business of selling cigars for consumption by patrons on the premises and generates ten percent (10%) or more of its total annual gross revenue or at least ten thousand dollars (\$10,000.00) in annual sales from the sale of cigars, not including any sales from vending machines. A cigar bar that fails to generate at least ten percent (10%) of its total annual sales from the sale of cigars in the calendar year after December 31, 2006, not including sales from vending machines, shall not be defined as a cigar bar and shall not thereafter be known as such regardless of sales figures. A cigar bar shall agree to provide adequate information to demonstrate to the village of Angel Fire's satisfaction compliance with this definition.

DEPARTMENT: The department of health.

DESIGNATED OUTDOOR SMOKING AREA: An area where smoking may be permitted, designated by an employer or manager, outside an indoor workplace or indoor public place; provided that the following conditions are maintained:

A. Smoking shall not be permitted near any building entrance, including a door, window or ventilation system of any facility where smoking is prohibited under the provisions of this chapter, so as to prevent secondhand smoke from entering the indoor workplace or indoor public place; and

B. Employees or members of the general public are not required to walk through the smoking area to gain entrance to the indoor workplace or indoor public place.

EMPLOYER: An individual, a partnership, a corporation or the state that employs the services of one or more individuals and includes the village of Angel Fire.

ENCLOSED: Any interior space predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include uncovered openings, screened or otherwise partially covered openings or open or closed windows.

INDOOR PUBLIC PLACE: The enclosed area within any governmental or nongovernmental place to which the public is invited or in which the public is permitted regardless of whether work or public business, meetings or hearings occur at any given time.

INDOOR WORKPLACE: Any enclosed place where one or more persons engage in work, including lobbies, reception areas, offices, conference and meeting rooms, employee cafeterias and lunchrooms, break rooms and employee lounges, classrooms, auditoriums, hallways, stairways, waiting areas, elevators and restrooms and includes all indoor workplaces and enclosed parts regardless of whether work occurs at any given time.

PRIVATE CLUB: An organization, whether incorporated or not, that is the owner, lessee or occupant of a building or portion thereof used exclusively for the organization's purposes at all times, that is operated solely for recreational, fraternal, social, patriotic, political, benevolent or athletic purposes, but not for pecuniary gain, and that only sells alcoholic beverages incidental to its operation. The organization shall have bylaws or a constitution to govern its activities and shall have been granted an exemption as a club under the provisions of section 501 of the internal revenue code of 1986, as amended.

RESTAURANT: A coffee shop, cafeteria, private or public school cafeteria or eating establishment and any other eating establishment that gives or offers for sale food to the public, patrons or employees, including kitchens and catering facilities in which food is prepared on the premises for serving elsewhere or a bar area within or attached to the premises.

RETAIL TOBACCO STORE: A retail store used primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental, including smoke shops, cigar shops or hookah lounges, and does not include establishments that offer for sale alcoholic beverages for consumption by patrons on the premises.

SECONDHAND SMOKE: Smoke emitted from lighted, smoldering or burning tobacco when the smoker is not inhaling, smoke emitted at the mouthpiece during puff drawing and smoke exhaled by the smoker.

SMOKE FREE AREA: Any building or other enclosed space where smoking is prohibited.

SMOKING: Inhaling, exhaling, burning, carrying or holding any lighted tobacco product, including all types of cigarettes, cigars and pipes and any other lighted tobacco product.

SMOKING PERMITTED AREA: Any building or other enclosed space where smoking may be permitted; provided that secondhand smoke does not infiltrate any area where smoking is prohibited pursuant to this chapter. (Ord. 2007-05, 8-14-2007)

4-5-4: SMOKING PROHIBITED:

A. It is unlawful for a person to smoke in any indoor workplace or indoor public place or in buses, taxicabs or other means of public transit not specifically exempted pursuant to this chapter. (Ord. 2007-05, 8-14-2007)

4-5-5: SMOKING PERMITTED AREAS:

Notwithstanding any other provision of this chapter, smoking permitted areas include the following:

A. A private residence, except during hours of business operation while it is being used commercially to provide

childcare, adult care or healthcare or any combination of those activities;

B. A retail tobacco store;

C. A cigar bar;

D. The facilities of a tobacco manufacturing company licensed by the United States to manufacture tobacco products that are operated by the company in its own name and that are used exclusively by the company in its business of manufacturing, marketing or distributing its tobacco products; provided that smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited under this chapter;

E. A state licensed gaming facility, casino or bingo parlor;

F. An indoor workplace to the extent that tobacco smoking is an integral part of a smoking cessation program that is approved by the department or of medical or scientific research that is conducted in the indoor workplace and in which each room of the indoor workplace in which tobacco smoking is permitted complies with signage requirements;

G. Designated outdoor smoking areas;

H. Private clubs;

I. A limousine under private hire;

J. Hotel and motel rooms that are rented to guests and are designated as smoking permitted rooms; provided that not more than twenty five percent (25%) of rooms rented to guests in a hotel or motel may be so designated;

K. Enclosed areas within restaurants, bars, hotel and motel conference or meeting rooms while these places are being used for private functions; provided that none of these areas are open to the general public while the private functions are occurring and provided that smoke does not infiltrate other indoor workplaces or indoor public places where smoking is otherwise prohibited under this chapter;

L. A site that is being used in connection with the practice of cultural or ceremonial activities by Native Americans and that is in accordance with the federal American Indian religious freedom act, 42 USC 1996 and 1996a;

M. A business of a sole proprietor or a business with fewer than two (2) employees that is not commonly accessible to the public; provided that:

1. The business is not a restaurant or bar;

2. The employer or manager of such business shall provide a smoke free work environment for each employee requesting a smoke free work environment; and

3. Cigarette smoke does not infiltrate other smoke free work environments as provided for in this chapter; and

N. A theatrical stage or a motion picture or television production set when it is necessary for performers to smoke as part of the production. (Ord. 2007-05, 8-14-2007)

4-5-6: PROHIBITION OF SMOKING NEAR ENTRANCES, WINDOWS AND VENTILATION SYSTEMS:

Smoking is prohibited near entrances, windows and ventilation systems of all workplaces and public places where smoking is prohibited by this chapter. An individual who owns, manages, operates or otherwise controls the use of any premises subject to the provisions of this chapter shall establish a smoke free area that extends a reasonable distance from any entrances, windows and ventilation systems to any enclosed areas where smoking is prohibited. The reasonable distance shall be a distance sufficient to ensure that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and to ensure that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means. (Ord. 2007-05, 8-14-2007)

4-5-7: RESPONSIBILITIES OF EMPLOYERS:

A. Employers shall provide that their places of employment meet the requirements of this chapter.

B. An employer shall adopt, implement, post and maintain a written smoking policy pursuant to this chapter. (Ord. 2007-05, 8-14-2007)

4-5-8: POSTED SMOKE FREE AND SMOKING PERMITTED AREAS:

A. To advise persons of the existence of smoke free areas or smoking permitted areas, signs shall be posted as follows:

1. For each indoor workplace or indoor public place where smoking is prohibited pursuant to this chapter, a "no smoking" sign shall be posted where it is clear, conspicuous and easily legible at each public entrance. Posting of "no smoking" signs is the responsibility of the owner, operator, manager or other person having control of the indoor workplace or indoor public place; and

2. For each indoor workplace or indoor public place where smoking is permitted pursuant to this chapter, a "smoking permitted" sign shall be posted where it is clear, conspicuous and easily legible at each public entrance, unless an owner, operator or manager chooses to prohibit smoking in all or part of an indoor workplace or indoor public place where smoking is otherwise permitted.

B. Nothing in this chapter shall be construed so as to require the posting of signs at a residence, except during the hours of business operation while it is being used commercially to provide childcare, adult care or healthcare or any combination

of those activities. (Ord. 2007-05, 8-14-2007)

4-5-9: ENFORCEMENT:

A. Enforcement of this chapter may be by citation from the fire department, police department or code enforcement officers.

B. A person may register a complaint regarding an alleged violation pursuant to this chapter to initiate enforcement with the fire or police department.

C. The designated enforcement agencies may inspect an establishment for compliance with this chapter. (Ord. 2007-05, 8-14-2007)

4-5-10: VIOLATIONS:

It is unlawful for a person who owns, manages, operates or otherwise controls the use of premises subject to regulation under this chapter to violate its provisions. The owner, manager or operator of premises subject to regulation shall not be subject to a penalty if a person on the premises is in violation of this chapter as long as the owner, manager or operator has posted signs, implemented the appropriate policy and informed the person that the person is in violation. (Ord. 2007-05, 8-14-2007)

4-5-11: PENALTIES:

A person eighteen (18) years of age or older who violates a provision of this chapter is subject to:

A. A fine not to exceed one hundred dollars (\$100.00) for the first violation;

B. A fine not to exceed two hundred dollars (\$200.00) for the second violation within any consecutive twelve (12) month period of the first violation; and

C. A fine not to exceed five hundred dollars (\$500.00) for the third and each subsequent violation within any consecutive twelve (12) month period of a previous violation. (Ord. 2007-05, 8-14-2007)

4-5-12: NONRETALIATION; NONWAIVER:

A. A person or employer shall not discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or patron because that employee, applicant or patron exercises any rights afforded by this chapter or reports or attempts to prosecute a violation of this chapter.

B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party. (Ord. 2007-05, 8-14-2007)

TITLE 5

POLICE REGULATIONS

CHAPTER 1

POLICE DEPARTMENT

SECTION:

5-1-1: Department Established

5-1-2: Chief Of Police

5-1-3: Powers And Duties Of Police Officers

5-1-4: Oath Of Office

5-1-5: Department Rules And Regulations

5-1-6: Uniforms

5-1-7: Duty Of Citizens To Aid Police

5-1-8: Reserve Police

5-1-1: DEPARTMENT ESTABLISHED:

There is created a police department for the village which shall consist of one chief of police and as many police officers as may from time to time be deemed necessary for the safety and good order of the village. (Ord. 1988-10, 11-3-1988)

5-1-2: CHIEF OF POLICE:

A. Appointment; Qualifications; Powers And Duties: The chief of police shall be appointed by the mayor with the approval of the village council, shall be a certified police officer in the state and shall:

1. Execute and return all writs and processes as directed by the municipal judge;

2. Be deputized as a special deputy by the Colfax County sheriff;
3. Serve criminal writs and processes in any part of the county wherein the village is situated;
4. Within the community, suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons, pursue and arrest any person fleeing from justice and apprehend any person in violation of the laws of the state or the ordinances of the village and bring him before competent authority for examination and trial; and
5. Render such amounts of the police department, his duties, department operations and receipts as may be required by the council and keep records of the department and his office open to public inspection at all times.

B. Oath and Bond: Before entering upon the duties of such office, the chief of police shall take and subscribe to an oath that he will support the constitution of the state, constitution of the United States and ordinances of the village, and that he will faithfully perform the duties of the office upon which he is about to enter. He shall furnish a surety bond in a principal sum to be fixed and conditioned upon the faithful discharge of the duties of his office, or a surety bond covering all officers of the department may be secured. (Ord. 1988-10, 11-3-1988)

5-1-3: POWERS AND DUTIES OF POLICE OFFICERS:

A. All commissioned officers of the police department shall:

1. Perform all duties as required by law;
2. Suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons in the community and pursue and arrest any person fleeing from justice in any part of the state; and
3. Be the enforcement officers of the community and see that the provisions of this code, village ordinances and the laws of the state are complied with.

B. Police officers shall arrest, without process, all persons engaged in the violation in their presence of any provision of this code or the laws of the state. Upon such arrest, they shall forthwith convey such offenders before the proper officer to be dealt with according to law; provided, that they may incarcerate any person whom they shall arrest at a late and unusual hour of the night until the following morning, and provided further, that in the special cases relating to traffic offenses, they may release an arrested person upon his written promise to appear in court.

C. Police officers shall:

1. Report such offenses as may come to their knowledge to the proper village official or they shall report the same to the municipal judge, securing a warrant for the arrest of offenders as shall be directed;
2. Execute and return all writs and processes to them directed by the municipal judge in any case arising under a village ordinance and may serve the same in any part of the county; and
3. Shall observe the condition of the streets, sidewalks and alleys of the village and of any obstruction, nuisance or impediments therein and shall take necessary measures to remove or abate the same. (Ord. 1988-10, 11-3-1988)

D. The police department may be required to control the flow of traffic in time of an emergency or different times of the year that the village has seasonal or special events. The location and patterns of traffic flow are to be determined by the chief of police with concurrence by the mayor. (Ord. 2003-04, 2-24-2003, eff. 2-29-2003)

5-1-4: OATH OF OFFICE:

Before entering upon the duties of his office, each police officer shall take and subscribe an oath that he will support the constitution and laws of the state, the constitution of the United States and the ordinances of the village, and that he will faithfully perform the duties of the office upon which he is about to enter. (Ord. 1988-10, 11-3-1988)

5-1-5: DEPARTMENT RULES AND REGULATIONS:

The police department shall be operated and managed in accordance with such departmental rules and regulations as may be adopted by the village council. (Ord. 1988-10, 11-3-1988)

5-1-6: UNIFORMS:

Every police officer shall wear, at all times while on duty, a uniform of the type and quality prescribed by the council. (Ord. 1988-10, 11-3-1988)

5-1-7: DUTY OF CITIZENS TO AID POLICE:

It shall be the duty of all persons, when called upon by any police officer, to promptly aid and assist such officer in the discharge of his duties. (Ord. 1988-10, 11-3-1988)

5-1-8: RESERVE POLICE:

The mayor may, upon an emergency, riot, pestilence, invasion or at any time he shall deem it necessary for the peace, good order or health of the village, order the chief of police to appoint reserve police officers for a specified time, not exceeding two (2) days, with the approval of the council. He may also, with the approval of a majority of the village council, order the chief of police to appoint such number of reserve police officers, as may be agreed upon by the council, to serve upon days of election, public celebration and holidays, and said reserve police shall have and possess all the powers and privileges of regular police officers during the time for which they may be appointed. (Ord. 1988-10, 11-3-1988)

CRIMINAL CODE

ARTICLE A. GENERAL PROVISIONS

SECTION:

5-2A-1: Short Title

5-2A-2: Jurisdiction

5-2A-3: Definitions

5-2A-4: Reasonable Detention For Assault, Battery, Public Affray Or Criminal Damage To Property

5-2A-5: Violation; Penalties; Limitations Of Actions

5-2A-1: SHORT TITLE:

This chapter may be cited as the *CRIMINAL CODE OF ANGEL FIRE* (Ord. 1992-02, 6-22-1992)

5-2A-2: JURISDICTION:

This chapter applies to offenses committed within the village limits as those limits may from time to time be established. (Ord. 1992-02, 6-22-1992)

5-2A-3: DEFINITIONS:

When not inconsistent with the context hereof:

- A. Words in the plural number include the singular number and vice versa.
- B. The masculine includes the feminine and neuter.

ANYTHING OF VALUE: Any conceivable thing of slightest value, tangible or intangible, moveable or immovable, corporeal or incorporeal, public or private. The term is not necessarily synonymous with the traditional legal term "property".

BAILIFF: Includes any employee of the municipal court of the village of Angel Fire who is designated by the municipal judge as bailiff.

COURT: The municipal court of the village of Angel Fire.

DRUG: Any chemical substance or compound, either natural or synthetic, having psychological and/or mind altering effects on its user including, but not limited to, intoxicating liquor, narcotic drug, depressant drug, hallucinogenic drug, stimulant drug, and fumes of paint or glue.

FIREFIGHTER: Any person who is so designated by the chief of the Angel Fire fire department or his designated representative.

MAYOR: The mayor or his designated representative.

PEACE OFFICER: Includes police officers and any other public official vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

PERSON: Includes, but is not limited to, any natural person whether over or under twenty one (21) years of age, firm, partnership, association, corporation, company or organization of any kind.

POSSESS: Any manner of custody, control, dominion or ownership, no matter how initiated.

PROBATION OFFICER: Includes any employee of the municipal court who is designated by the judge as a probation officer.

PUBLIC PLACE: Includes, but is not limited to, public dance halls, poolrooms, bars, saloons, bowling alleys, restaurants, commercial establishments patronized by the public, village public schools, county, state, or federal property, streets, sidewalks, parks, alleys, and parking lots.

SHALL: Is mandatory and not merely directory.

VILLAGE: The village of Angel Fire.

VILLAGE PARK: A park owned by the village which is normally less than five (5) acres in area and which has been designated by resolution. Such park shall be posted by the mayor or his representative as a park in which drinking alcoholic beverages is prohibited. (Ord. 1992-02, 6-22-1992)

5-2A-4: REASONABLE DETENTION FOR ASSAULT, BATTERY, PUBLIC AFFRAY OR CRIMINAL DAMAGE TO PROPERTY:

A. Definitions: As used in this section, the following words and terms shall have the meanings ascribed to them in this subsection:

LICENSED PREMISES: All public and private rooms, facilities and areas in which alcoholic beverages are sold or served in the customary operating procedures of establishments licensed to sell or serve alcoholic liquors.

OPERATOR: The owner or the manager of any establishment or premises open to the public.

PROPRIETOR: The owner of the licensed premises or his manager or his designated representative. (Ord. 1992-02, 6-22-1992)

B. Authority To Arrest: Any law enforcement officer may arrest without a warrant any persons he has probable cause for believing have committed the crime of "assault" or "battery", as defined in section 5-2B-1 of this chapter, or "public affray", as defined in section 5-2B-5 of this chapter, or "criminal damage to property", as defined in section 5-2C-1 of this chapter.

C. Nonliability Of Proprietor Or Operator: Any proprietor or operator who causes such an arrest shall not be criminally or civilly liable if he has actual knowledge, communicated truthfully and in good faith to the law enforcement officer, that the persons so arrested have committed the crime of "assault" or "battery", as defined in section 5-2B-1 of this chapter, or "public affray", as defined in section 5-2B-5 of this chapter, or "criminal damage to property", as defined in section 5-2C-1 of this chapter. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

5-2A-5: VIOLATION; PENALTIES; LIMITATIONS OF ACTIONS:

A. Violation; Penalties: It shall be unlawful to commit any of the acts set forth in articles B, C, D and E of this chapter. Unless specifically otherwise provided in this chapter, any person convicted of a violation of any provision of this chapter shall be deemed guilty of a petty misdemeanor and shall be subject to penalty as provided in section 1-4-1 of this code.

B. Limitations Of Actions: All prosecutions for the alleged violations of any provisions of this chapter shall be commenced within one year after the alleged violation and shall be barred thereafter. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

ARTICLE B. OFFENSES RELATING TO PUBLIC ORDER AND SAFETY

SECTION:

5-2B-1: Assault And Battery

5-2B-2: Criminal Trespass

5-2B-3: Unreasonable Noise

5-2B-4: Disorderly Conduct

5-2B-5: Public Affray

5-2B-6: Unlawful Assembly

5-2B-7: Obstructing Movement

5-2B-8: Removal Of Barricades

5-2B-9: Weapons

5-2B-10: Propulsion Of Missiles

5-2B-11: Unlawful Hunting

5-2B-12: Fireworks And Explosives

5-2B-13: Unauthorized Presence On School Premises

5-2B-14: False Alarms And Reports

5-2B-15: Concealing Identity

5-2B-16: Offenses Relating To Officers

5-2B-17: Abuse Of Or Interference With Police Animals

5-2B-18: Unauthorized Use Of Police Or Fire Vehicle Signs

5-2B-19: Escape From Jail Or Custody

5-2B-20: Window Peeping

5-2B-1: ASSAULT AND BATTERY:

A. Assault: "Assault" consists of:

1. An attempt to commit a battery upon the person of another; or
2. An unlawful act, threat, or menacing conduct which causes another person to reasonably believe that he is in danger of receiving an immediate battery; or
3. The use of insulting language toward another impugning his honor, delicacy or reputation, such as repeated insults,

taunts, or challenges, in which words are inherently intended to threaten bodily harm or property damage and likely to provoke a violent or disorderly response.

B. Battery: "Battery" is the unlawful, intentional touching or application of force to the person of another when done in a rude, insolent, or angry manner. (Ord. 1992-02, 6-22-1992)

5-2B-2: CRIMINAL TRESPASS:

"Criminal trespass" consists of:

A. Unlawfully entering or remaining upon the land or property of another, knowing that any consent to enter or remain has been denied or withdrawn by the person in lawful possession of the premises; or

B. Knowingly remaining upon the land or property of another, after the request or demand to leave the premises by the authorized representative of the person lawfully in possession of the premises; or

C. Purposely entering or remaining in any motor vehicle without the consent of the owner thereof. (Ord. 1992-02, 6-22-1992)

5-2B-3: UNREASONABLE NOISE:

"Unreasonable noise" consists of creating any such unreasonably loud, disturbing, or unnecessary noise of such character, intensity or duration as to be detrimental to the repose, life, or health of others, including, but not limited to, the following specific noises if created in violation of this section:

A. Horns And Signal Devices: The sounding of any horn or signaling device of any automobile, motorcycle, truck or other vehicle on any street or public place, except as a danger warning, which creates an unreasonable, loud or harsh sound or which occurs for an unnecessary and unreasonable period of time. This is not to include noise caused by accident or mechanical, electrical or other difficulty or failure.

B. Radios And Phonographs: The playing of any radio, television, phonograph, stereo, tapedeck, CD player, musical instrument, or other sound producing device in such a manner or with such an unreasonable volume as to disturb the quiet, comfort or repose of persons in any dwelling, motel, hotel, hospital or sanitarium.

C. Noisy Vehicles: The use of any automobile, truck, bus, or motorcycle so out of repair or so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling, or other noise.

D. Loudspeakers And Amplifiers Used For Advertising: The use of any loudspeaker, drum, whistle, bell, or other instrument or device for the purpose of attracting attention by the creation of sound to any performance, show, sale, display of merchandise or political candidate, party or platform without first obtaining a written permit from the village. The mayor or his designated representative shall issue such permit, subject only to such reasonable standards of noise volume and hours of operation as he or his representative may adopt.

E. Schools, Courts, Churches, Hospitals: The creating of any excessive noise on any street adjacent to any hospital, school, institution of learning, church, or court which interferes with the workings of such institution or which disrupts or annoys occupants of said building. (Ord. 1992-02, 6-22-1992)

5-2B-4: DISORDERLY CONDUCT:

A person commits disorderly conduct if he intentionally, knowingly, or recklessly:

A. Engages in any public place any violent, abusive, or indecent conduct which creates a clear and present danger of violence; or

B. Initiates communications with a person, anonymously or otherwise by telephone, in a manner intended to annoy, harass or threaten bodily harm or property damage, or makes any comment, request, suggestion or proposal by telephone which is obscene. Any offense by use of a telephone as set forth in this section shall be deemed to have been committed at either the place where the telephone call originated or at the place where the telephone call was received; or

C. Makes a telephone call or causes a telephone to ring repeatedly, with no purpose of legitimate conversation, whether or not conversation ensues; or

D. Maliciously disturbs, threatens, or in an insolent manner, intentionally touches any house or vehicle occupied by any person; or

E. Incites, causes, aids, abets, or assists in creating, any riot, affray, or disturbance at or within any dwelling or building, whether public or private, or at any other public place in the village; or

F. Uses in any public place fighting words, which by their very utterance are likely to provoke a violent reaction in an average person to whom such words are addressed; or

G. Maliciously disturbs, or threatens or, in an insolent manner, intentionally touches or applies force to any person in a building or grounds of any public or private school, preschool, primary or secondary school or college; or

H. Urinates or defecates in public view on any public place or any private property without the consent of the person lawfully in possession of the property; or

I. Makes a coarse or obviously offensive utterance, gesture, or display in a public place; or

J. Follows a person in or about a public place with intent to harass or annoy; or

K. Engages in conduct or repeatedly commits acts that alarm or seriously annoy another person and that serve no legitimate purpose. (Ord. 1992-02, 6-22-1992)

5-2B-5: PUBLIC AFFRAY:

"Public affray" consists of two (2) or more persons voluntarily or by agreement engaging in any fighting or using any blows or violence towards each other in an angry or quarrelsome manner in any public place, to the disturbance of others. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

5-2B-6: UNLAWFUL ASSEMBLY:

"Unlawful assembly" consists of gathering together or assemblage of three (3) or more persons for a common purpose which either:

A. Creates a clear and present danger or an immediate threat of substantial harm to persons and/or property. When an "unlawful assembly" occurs, as defined in this section, an order to disperse shall be given by a police officer in such a manner as can reasonably be expected to give actual notice of said order to persons either directly or indirectly involved in such unlawful assembly. Refusal to obey an order to disperse within such time as is reasonably required for such assemblage to physically disperse after such order is given or wilful and open resistance to said order shall constitute a violation of this chapter; or

B. Manifests a common intent to do any unlawful act by force or violence against the person and/or property of another. Participation in an unlawful assembly to further such unlawful purpose shall constitute a violation of this chapter. (Ord. 1992-02, 6-22-1992)

5-2B-7: OBSTRUCTING MOVEMENT:

"Obstructing movement" consists of:

A. Hindering, annoying, or molesting any person's passage along any street, sidewalk, or other public way; or

B. Loitering, sitting, or standing around at the public entrance of any church, public hall, theater, public building, or other place of public assemblage in any manner so as to unreasonably obstruct such entrance. (Ord. 1992-02, 6-22-1992)

5-2B-8: REMOVAL OF BARRICADES:

"Removal of barricades" consists of knowingly or wilfully removing, destroying or interfering with any barrier, guard or light placed before or at any dangerous place in or near the streets, sidewalks, or ways of the village for the purpose of warning or protecting travelers from injury or damage; provided, that removal after the danger has ceased and temporary removal to allow the passage of a vehicle with immediate subsequent replacement shall not be considered unlawful. (Ord. 1992-02, 6-22-1992)

5-2B-9: WEAPONS:

A. Definitions: As used in this section, unless context otherwise requires, the following words and terms shall have the meanings ascribed to them in this subsection:

BLACKJACK: Includes any billy, sand club, sandbag, or other hand operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.

BOMB: Any explosive or incendiary device or Molotov cocktail which is not specifically designed for lawful and legitimate use in the hands of its possessor.

FIREARMS SILENCER: Any instrument, attachment, weapon or appliance causing the firing of any gun, revolver, pistol, or other firearm to be silent or intended to lessen or muffle the noise of the firing of any such weapon.

GAS GUN: A device designed for projecting gas filled projectiles which release their contents after having been projected from the device and includes projectiles designed for use in such a device.

GRAVITY KNIFE: Any knife that has a blade released from the handle or sheath thereof by the force of gravity or by the application of centrifugal force that, when released, is locked in place by means of a button, spring, lever, or other device.

KNIFE: Any dagger, dirk, knife, or stiletto with a blade over three and one-half inches (3½") in length, or any other dangerous instrument capable of inflicting cutting, stabbing or tearing wounds, but does not include a hunting or fishing knife carried for sports use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

MACHINE GUN: Any firearm, whatever its size and usual designation, that shoots automatically more than one shot, without manual reloading, by a single function of the trigger.

SHORT RIFLE: A rifle having a barrel less than sixteen inches (16") long or an overall length less than twenty six inches (26").

SHORT SHOTGUN: A shotgun having a barrel less than eighteen inches (18") long or an overall length of less than twenty six inches (26").

SWITCHBLADE KNIFE: Any knife, the blade of which opens automatically by hand pressure applied to a button, spring, or other device in its handle.

B. Carrying Deadly Weapons:

1. Prohibition; Exceptions: Unlawfully carrying a deadly weapon concealed in a manner making it not readily visible on or about the person or in close proximity thereto, without legal authority, so that the weapon is readily accessible for use is unlawful except:

- a. In the person's residence or on real property belonging to him as an owner, lessee, tenant or licensee; or
- b. In a private automobile or other private means of conveyance for the protection of his person or property, or the person or property of another; or
- c. By a peace officer in the lawful discharge of his duties; or
- d. On a target range as authorized by law.

2. Definition: "Deadly weapon", as used in this subsection, means any firearm, or any weapon which is capable of producing death or great bodily harm, including, but not restricted to, any type of dagger, metallic knuckles, switchblade, poniard, dirk knife, sword cane, sharp pointed cane or rod, slingshot, bludgeon, num chucks, straight edge razor, gravity knife, blackjack, bomb, firearm silencer, gas gun, machine gun, short shotgun, or slapper.

3. Unloaded Firearms: Nothing in this subsection shall be construed to prevent the carrying of any unloaded firearm.

C. Negligent Use Of A Weapon: "Negligent use of a weapon" consists of:

1. Discharging a weapon within the village limits without legal justification; or
2. Carrying or having within one's reach or immediate grasp, a deadly weapon while under the influence of an intoxicating liquor or drug; or
3. Endangering the safety of another or his property by handling or using a firearm or other deadly weapon in a negligent manner; or
4. Selling, loaning, or furnishing any deadly weapon to a person with knowledge that the person is under the influence of an intoxicating liquor or drug, or that the person is incompetent.

D. Unlawful Possession, Transfer Or Sale Of Weapons:

1. Unlawful Possession Or Transfer Of Weapons: "Unlawful possession or transfer of weapons" consists of possessing, selling, lending, giving away, or purchasing any form of metallic knuckles, any form of blackjack, or knife which opens automatically by hand pressure to a button, spring, or other device, or gravity knife.

2. Unlawful Sale Of Deadly Weapons: "Unlawful sale of a deadly weapon" consists of giving, selling, bartering, or exchanging for anything of value any deadly weapon or ammunition for any firearm to any person under the age of eighteen (18) years; provided, however, that nothing herein contained shall be construed to prevent any parent or guardian from purchasing such weapon or ammunition for his child or ward. (Ord. 1992-02, 6-22-1992)

5-2B-10: PROPULSION OF MISSILES:

"Propulsion of missiles" consists of shooting, slinging, or throwing stones, rocks, pellets, BB shot, or any kind of missile, object or substance whatsoever in any manner as to be reasonably likely to cause injury to any person or property. This provision shall not be construed to prohibit target firing when conducted so as to secure safety of inhabitants of the village. Target firing may be permitted when conducted on ranges meeting the specifications of the national rifle association or its equivalent upon submitting proof that such range meets such specifications and upon obtaining a permit from the mayor or his designated representative based upon such proof. (Ord. 1992-02, 6-22-1992)

5-2B-11: UNLAWFUL HUNTING:

A. Hunting Prohibited: It is unlawful to hunt, take, capture, kill or attempt to take, capture or kill, at any time or in any manner, any game animal or game bird, as defined by the laws of the state, within the boundary limits of the village as those limits may from time to time be established.

B. Exemptions:

1. The provisions of this section do not apply to fishing as permitted by the laws of the state.
2. The provisions of this section do not apply to hunting as allowed and as limited in the designated "ski area" pursuant to section 5.5 and subject to section 4.1.1 of the annexation and development agreement entered into between the village and Angel Fire Resort, dated December 30, 1997, and recorded in the records of Colfax County, book 9, pages 7993-8095.

C. Violation; Penalty: Violation of this section is a petty misdemeanor and shall be punished as provided in this chapter. (Ord. 1998-13, 12-17-1998)

5-2B-12: FIREWORKS

A. Definitions:

FIREWORKS: 1. Means:

- a. Common Fireworks: Any fireworks devices suitable for use by the public that comply with the construction, performance, composition and labeling requirements promulgated by the United States consumer product safety

commission in title 16, CFR, and that is classified as a class C explosive by the United States department of transportation.

b. Special Fireworks: Fireworks devices primarily intended for commercial displays which are designed to produce visible or audible effects by combustion, deflagration, or detonation including salutes containing more than one hundred thirty milligrams (130 mg) (2 grains) of explosive composition, aerial shells containing more than forty grams (40 g) of chemical composition exclusive of the lift charge and other exhibition display items that exceed the limits contained in the fireworks licensing and safety act (New Mexico Statutes Annotated section 60-2C-1 et seq., herein referred to as the "act") for common fireworks.

c. Aerial Device: A fireworks device that, upon ignition, propels itself or an insert a significant distance into the air, but does not include a firework that produces a shower of sparks.

d. Ground Audible Device: A fireworks device intended to function on the ground that produces an audible effect.

e. Permissible Fireworks: Fireworks legal for sale and use in New Mexico under the provisions of the fireworks licensing and safety act.

2. The term "fireworks" shall not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty five hundredths (0.25) grain or less of explosive compound are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty hundredths (0.20) grain of explosive mixture, the sale and use of which shall be permitted at all times.

POSSESSION OF FIREWORKS: Consists of either selling, offering to sell, owning, possessing, manufacturing, transporting, or discharging any firecracker, Roman candle, sky rocket, torpedo, bomb, or any type of bomb, or explosive commonly known as fireworks, unless such item has been declared by the fire chief as a safe and sane device and not as dangerous to persons or property.

SAFE AND SANE DEVICES: As approved by the fire chief, shall be those devices listed as approved for sale by the fire chief. Any device which propels any potion, part, or projectile more ten feet (10') in the air or has a report louder than the paper caps described herein are not considered safe and sane.

B. Exemptions From Provisions:

1. Nothing contained herein shall be held to prevent such activities as may be authorized by compliance with the provisions of title 8, chapter 2 of this code.

2. Nothing herein contained shall be held to apply to or prohibit any employee of the state game and fish department or the United States fish and wildlife service from possessing fireworks for control of game birds and/or to prohibit the village or any civic organization herein from sponsoring and conducting, in connection with any public celebration, an official and controlled fireworks display.

C. Sale, Use Or Possession Of Fireworks; Compliance With State Law: Possession, use or sale of any fireworks is lawful only if such possession or sale is in compliance with the licensing and permit provisions of the act, and only if such fireworks are authorized herein and used in compliance with the act. Any village certified law enforcement officer or the fire chief may require persons to produce permits or licenses as required by the act and, if not so produced, take action pursuant to subsection D2 of this section.

D. Aerial And Ground Audible Devices:

1. Prohibitions; Permit Requirements:

a. Pursuant to New Mexico Statutes Annotated section 60-2C-7, the possession or use of aerial devices or ground audible devices is prohibited; provided, that public display of such is not prohibited, if a written permit is obtained from the village administrator and fire chief, and the devices are purchased from a distributor licensed by the state fire marshal and the bureau of alcohol, tobacco, and firearms of the United States department of treasury.

b. No person shall sell, give away, offer for sale, exhibit for sale, or possess any aerial device or ground audible device within the village or within five thousand feet (5,000') of the village limits, unless such person shall have a valid permit issued pursuant to subsection D1a of this section.

2. Seizure And Destruction Of Devices: The fire chief or any police officer is authorized to seize such devices found within the village limits, or within five thousand feet (5,000') thereof in violation of this section. The fire chief or any police officer is authorized to destroy any devices so obtained after complying with the following procedure:

a. After seizure of the fireworks, the fire chief or police chief shall immediately notify the village administrator and shall arrange for a secure storage facility for the fireworks.

b. The village administrator shall notify in writing (but if no address is reasonably available, verbally) the person from whom the devices have been seized and inform that person that a hearing will be held by the village council at a regular or special meeting at which time the person shall have the right to appear in person or by counsel for the purpose of showing cause, if any, why the fireworks should not be destroyed.

c. The village council shall conduct said hearing and make a decision as to whether or not the devices should be returned to the individual or should be ordered destroyed. Provided, however, confiscated devices may be destroyed immediately upon a written finding and determination by the fire chief that the destruction is necessary to protect the public

health, welfare, and safety.

E. Fireworks Near Flammable Liquids: No fireworks shall be stored, possessed, or used within three hundred feet (300') of gasoline or other flammable liquids unless such liquids are sealed in metal containers of not more than one gallon capacity.

F. Other Explosive Substances: No person shall ignite or explode any flammable or explosive device or chemical composition or substance, including, but not limited to, dynamite, railroad torpedoes, blasting powder, dynamite caps, flashlight powder, signal lights, or gunpowder, except in the use of such devices, compositions or substances for industrial, commercial, professional, scientific, or other practical purposes and only as otherwise authorized by law.

G. Civil Liability: Nothing in this section shall relieve any person from any civil liability in connection with the storage, possession, sale, or use of fireworks or other devices, compositions or substances referred to herein. (Ord. 1992-02, 6-22-1992)

H. Penalties: Any violation of this section shall be punishable as provided in section 1-4-1 of this code. Every day that such violation continues shall constitute a separate offense. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

Notes

¹ 1. See also title 4, chapter 2 of this code. **1 AND EXPLOSIVES:**

5-2B-13: UNAUTHORIZED PRESENCE ON SCHOOL PREMISES:

A. It is unlawful for any person, except students, officers or employees of the school or persons with lawful business on the premises, to knowingly enter or remain in the buildings, yard, or parking lot of a public or private school, preschool, primary or secondary school or college during regular school hours if:

1. The person is in violation of posted school regulations; or
2. The person intends, as evidenced by some overt act, to disrupt or interfere with the activities of students, officers, or employees on the premises; or
3. The person has been denied permission to enter or remain on the premises by the school administrator or his designated representative.

B. It shall be grounds for denial of permission if the person commits the acts enumerated in subsections A1 and A2 of this section, is on the premises without a justifiable school purpose, or has disrupted or interfered with activities of students, officers, or employees at any school in the village in the past. (Ord. 1992-02, 6-22-1992)

5-2B-14: FALSE ALARMS AND REPORTS:

A. False Alarms: It is unlawful for any person to knowingly give a false alarm of need for fire, ambulance or police assistance.

B. False Reports: It is unlawful for any person to intentionally make and file with any law enforcement agency or employee of said agency, who is acting in his official capacity, any false, misleading, or unfounded report or statement knowing at the time it is made that said statement or report is false, unfounded or misleading. (Ord. 1992-02, 6-22-1992)

5-2B-15: CONCEALING IDENTITY:

It is unlawful for anyone to conceal one's true name or identity or disguise oneself with the intent to obstruct due execution of the law or with intent to intimidate, hinder, or interrupt any public officer, police officer, or any other person in the legal performance of his or her duties. (Ord. 1992-02, 6-22-1992)

5-2B-16: OFFENSES RELATING TO OFFICERS:

A. Impersonating A Uniformed Employee; Unauthorized Wearing Of Police Uniform Or Badge:

1. "Impersonating a uniformed employee" consists of any person pretending or falsely representing himself to be that employee or official with intent to deceive another.
2. "Unauthorized wearing of uniform or badge" consists of the wearing, without authorization by the police chief, a uniform, badge or insignia, whose material, color, or design, or any combination of them, is such that the wearer appears to be a member of the police department.

B. Resisting, Obstructing Or Refusing To Obey An Officer: "Resisting, obstructing or refusing to obey an officer" consists of:

1. Knowingly obstructing, resisting, or opposing any officer of the state or any other duly authorized person from serving or attempting to serve or execute any process or any rule or order of any part of the courts of the state or any other judicial writ or process; or
2. Resisting or abusing any judge, magistrate or peace officer in the lawful discharge of his duties; or
3. Refusing to obey or comply with any lawful process or order given by any police officer acting in the lawful discharge of his duties; or

4. Interfering with, obstructing or opposing any officer in the lawful discharge of his regular and affixed duties. (Ord. 1992-02, 6-22-1992)

5-2B-17: ABUSE OF OR INTERFERENCE WITH POLICE ANIMALS:

"Abuse or interference with investigation use of police department animals" consists of either: (Ord. 1992-02, 6-22-1992)

A. Wilfully or maliciously torturing, tormenting, beating, kicking, striking, mutilating, injuring, disabling, or killing any animal used by any peace officer in the performance of his functions or duties or of the functions or duties of the police department; or (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

B. Knowingly interfering with or meddling with any such animal, or the equipment used on or by such animal; or

C. Knowingly engaging in conduct designed to agitate such animal. (Ord. 1992-02, 6-22-1992)

5-2B-18: UNAUTHORIZED USE OF POLICE OR FIRE VEHICLE SIGNS:

"Unauthorized use of vehicle signs" consists of displaying on any vehicle, whether moving or parked, the words "police", "police department", "Angel Fire police department", "department of police", "fire department", "Angel Fire fire department", or words or insignia of similar import without authority of the mayor or his designated representative; provided, that nothing herein shall apply to any state police, county sheriff, or county fire department vehicles. (Ord. 1992-02, 6-22-1992)

5-2B-19: ESCAPE FROM JAIL OR CUSTODY:

A. Escape From Jail: "Escape from jail" consists of any person who shall have been lawfully committed to the county jail, escaping or attempting to escape from such jail or from a work detail to which such person is assigned. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

B. Escape From Custody: "Escape from the custody of a police officer" consists of any person who shall have been placed under lawful arrest or who shall have been remanded to the custody of any police officer pursuant to court orders, escaping, or attempting to escape from the lawful custody or control of a police officer.

C. Assisting Escape: "Assisting escape" consists of either:

1. Intentionally aiding any person confined or held in lawful custody or confinement to escape; or

2. Any officer, jailer, or other employee intentionally permitting any prisoner in his custody to escape. (Ord. 1992-02, 6-22-1992)

5-2B-20: WINDOW PEEPING:

Entering upon any private property and looking into any occupied dwelling without the consent of the occupant or owner of the dwelling is hereby declared a public nuisance. (Ord. 1992-02, 6-22-1992)

ARTICLE C. OFFENSES RELATING TO PROPERTY

SECTION:

5-2C-1: Criminal Damage To Property

5-2C-2: Arson And Negligent Arson

5-2C-3: Damaging Or Tampering With Vehicle

5-2C-4: Petty Larceny; Shoplifting

5-2C-5: Fraud

5-2C-6: Embezzlement

5-2C-7: Issuing Worthless Checks

5-2C-8: Theft Of Credit Card

5-2C-9: Falsely Obtaining Services Or Accommodations

5-2C-10: Receiving Stolen Property

5-2C-11: Public Nuisance

5-2C-12: Littering

5-2C-13: Use Of Engine Without Spark Arrestor

5-2C-1: CRIMINAL DAMAGE TO PROPERTY:

A. Criminal Damage To Private Property: "Criminal damage to private property" consists of intentionally damaging to a value of less than one thousand dollars (\$1,000.00) any real or personal property of another without consent of the person lawfully in possession of the property.

B. Criminal Damage To Public Property: "Criminal damage to public property" consists of intentionally damaging to a value of less than one thousand dollars (\$1,000.00) any real or personal property of the village, without the consent of the

owner thereof. (Ord. 1992-02, 6-22-1992)

5-2C-2: ARSON AND NEGLIGENT ARSON:

"Arson" consists of maliciously or wilfully starting a fire or causing an explosion with the purpose of destroying or damaging any building, occupied structure or property of another, or bridge, utility line, fence or sign; or with the purpose of destroying or damaging any property, whether the person's own or another's, to collect insurance for such loss. Whoever commits arson or negligent arson when the value of the thing destroyed or damaged is two hundred fifty dollars (\$250.00) or less is guilty of a violation of this chapter. (Ord. 2012-04, 8-28-2012)

5-2C-3: DAMAGING OR TAMPERING WITH VEHICLE:

A. Description: "Damaging or tampering with a motor vehicle" consists of any person who shall individually or in association with one or more persons:

1. Purposely and without authority from the owner, start, or cause to be started, the motor of any motor vehicle; or
2. Purposely and maliciously shall shift or change the starting device or gears of a standing vehicle to a position other than that in which they were left by the owner or driver of said motor vehicle; or
3. Purposely destroys any part of a motor vehicle or purposely cuts, mashes, marks, or in any other way destroys or damages any part, attachment, fastening, or appurtenance of the motor vehicle without the permission of the owner thereof; or
4. Purposely scratches or damages the chassis, running gear, body, sides, top covering or upholstery of a motor vehicle, the property of another; or
5. Purposely drains or starts drainage of any radiator or oil tank or gas tank upon a motor vehicle without permission of the owner thereof; or
6. Purposely puts any metallic or other substance or liquid in the radiator, carburetor, oil tank, grease cup, oiler, lamps, gas tank, or machinery of the motor vehicle with intent to damage the same or impede the working machinery thereof; or
7. Maliciously tightens, disconnects, loosens, or removes any part on any motor vehicle belonging to another; or
8. Purposely releases the brake upon a standing motor vehicle, with the intent to damage said machine.

B. Violation: Whoever does damage of one hundred dollars (\$100.00) or less to vehicles as proscribed in this section shall be guilty of a violation of this chapter.

C. Exemptions: Nothing in this section shall apply to a police officer or firefighter acting in the scope of his duties or to any other person acting at the direction of said police officer or firefighter. (Ord. 1992-02, 6-22-1992)

5-2C-4: PETTY LARCENY; SHOPLIFTING:

A. Definitions:

MERCHANDISE: Chattels of any type or description of the value of two hundred fifty dollars (\$250.00) or less offered for sale in or about the store.

MERCHANT: Any owner or proprietor of any store or any agent, servant, or employee of the owner or proprietor.

STORE: A place where merchandise is sold or offered to the public for sale at retail.

B. Petty Larceny: "Petty larceny" consists of the stealing of anything of value of two hundred fifty dollars (\$250.00) or less which belongs to another.

C. Shoplifting: "Shoplifting" consists of any one or combination of the following acts:

1. Wilfully taking possession of any merchandise with the intention of converting it without paying for it.
2. Wilfully concealing any merchandise with the intention of converting it without paying for it.
3. Wilfully altering any label, price tag, or marking upon any merchandise with the intention of depriving the merchant of all or some part of value of it.
4. Wilfully transferring any merchandise from the container in or on which it is displayed to any other container with the intention of depriving the merchant of all or some part of the value of it.

D. Presumption Created: Any person who wilfully conceals merchandise on his person or on the person of another or among his belongings or the belongings of another or on or outside the premises of the store shall be prima facie presumed to have concealed the merchandise with the intention of converting it without paying for it. If any merchandise is found concealed upon any person or among his belongings, it shall be prima facie evidence of wilful concealment.

E. Reasonable Detention; Arrests:

1. If any police officer, special officer, or merchant has probable cause for believing that a person has wilfully taken possession of any merchandise with the intention of converting it without paying for it, or has wilfully concealed merchandise and that he can recover the merchandise by detaining the person or taking him into custody, the police officer, special officer, or merchant may, for the purpose of attempting to effect a recovery of the merchandise, take a person into custody and detain him in a reasonable manner for a reasonable time.

2. Any police officer may arrest without warrant any person he has probable cause for believing has committed the crime of shoplifting. (Ord. 2012-04, 8-28-2012)

5-2C-5: FRAUD:

"Fraud" consists of the intentional misappropriation or taking of anything of value of two hundred fifty dollars (\$250.00) or less which belongs to another by means of fraudulent conduct, practices, or representations. (Ord. 2012-04, 8-28-2012)

5-2C-6: EMBEZZLEMENT:

"Embezzlement" consists of the embezzling or converting by a person to his own use, anything of value of two hundred fifty dollars (\$250.00) or less, with which he has been entrusted, with fraudulent intent to deprive the owner thereof. (Ord. 2012-04, 8-28-2012)

5-2C-7: ISSUING WORTHLESS CHECKS:

"Issuing a worthless check" consists of issuing in exchange for anything of value with intent to defraud any check, draft, or order for the payment of money in the amount of twenty five dollars (\$25.00) or less drawn upon any bank or other depository knowing at the time of the issuing that the offender has insufficient funds, credit, or no account with the bank or other depository, for the payment of such check, draft, or order in full upon its representation. (Ord. 1992-02, 6-22-1992)

5-2C-8: THEFT OF CREDIT CARD:

A. Definitions: As used in this section, the following words and terms shall have the meanings ascribed to them in this subsection:

ANYTHING OF VALUE: Includes money, goods, and services.

CARDHOLDER: The person or organization identified on the face of a credit card to whom or for whose benefit the credit card is issued by any issuer.

CREDIT CARD: Any instrument or device whether known as a credit card, credit plate, charge card, or by other name issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything of value, either on credit or in consideration of an undertaking or guarantee by the issuer of the payment of a check drawn by the cardholder.

EXPIRED CREDIT CARD: A credit card which shows on its face that it is outdated.

INCOMPLETE CREDIT CARD: A credit card upon which a part of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder, has not been stamped, embossed, imprinted, or written on.

ISSUER: The business organization or financial institution or its duly authorized agent which issues a credit card.

MERCHANT: Every person who is authorized by an issuer or a participating party to furnish money, goods, services, or anything of value upon presentation of a credit card by the cardholder.

PARTICIPATING PARTY: A business organization or financial institution other than the issuer which acquires for value a sales slip or agreement.

REVOKED CREDIT CARD: A credit card for which permission to use has been suspended or terminated by the issuer and notice thereof has been given to the cardholder.

SALES SLIP OR AGREEMENT: Any writing evidencing a credit card transaction.

B. Committing Theft Of A Credit Card: Theft of a credit card is committed when:

1. Any person other than the issuer receives or possesses a credit card that he knows or has reason to know to have been stolen, lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession thereof with the intent to use it or sell it or to transfer it to a person other than the issuer or cardholder; or

2. Any person receives money, goods, or services, or anything else of a value of two hundred fifty dollars (\$250.00) or less obtained by another person through the use of a credit card possessed in violation of this section, and who knows or has reason to believe that it was so obtained.

C. Value Of Credit Cards; Prosecutions: For the purpose of this chapter, every credit card, whether valid, expired, incomplete, or revoked, is presumed to have value, and proof of said value is not necessary in any prosecution hereunder. (Ord. 2012-04, 8-28-2012)

5-2C-9: FALSELY OBTAINING SERVICES OR ACCOMMODATIONS:

"Falsely obtaining services or accommodations" consists of any person obtaining any service, petroleum product, food, entertainment or accommodations of a value of two hundred fifty dollars (\$250.00) or less without paying therefor, and with intent to cheat the owner or person supplying such service, petroleum product, food, entertainment or accommodations. (Ord. 2012-04, 8-28-2012)

5-2C-10: RECEIVING STOLEN PROPERTY:

A. Definitions:

DEALER: A person in the business of buying or selling goods or commercial merchandise.

RECEIVING STOLEN PROPERTY: The intentional receiving, retaining, or disposing of stolen property knowing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the rightful owner.

B. Requisite Knowledge: The requisite knowledge or belief that property has been stolen is presumed in the case of an individual or dealer who:

1. Is found in possession or control of property stolen from two (2) or more persons on separate occasions; or
2. Acquires stolen property for a consideration which the individual or dealer knows is far below the property's reasonable value. A dealer shall be presumed to know the fair market value of the property in which he deals.

C. Receiving Stolen Property Prohibited: Whoever receives stolen property when the value of the property is two hundred fifty dollars (\$250.00) or less is guilty of violating this chapter. (Ord. 2012-04, 8-28-2012)

5-2C-11: PUBLIC NUISANCE:

A. Definition: As used in this section, "public nuisance" consists of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority which is either:

1. Injurious to public health, safety, morals or welfare; or
2. Interferes with the exercise and enjoyment of public rights, including the right to use public property.

B. Public Nuisances Prohibited: Whoever commits a public nuisance for which the act or penalty is not otherwise prescribed by law is guilty of a violation of this chapter. (Ord. 1992-02, 6-22-1992)

5-2C-12: LITTERING:

A. Definitions:

LITTERING: Consists of discarding refuse:

1. On public property in any manner other than by placing the refuse in a receptacle provided for the purpose by the responsible authorities, or otherwise in accordance with lawful direction; or
2. On private property not owned or lawfully occupied or controlled by the person, except with consent of the owner, lessee or occupant thereof.

REFUSE: 1. Any article or substance:

- a. Which is commonly discarded as waste; or
- b. Which, if discarded on the ground, will create or contribute to any unsanitary, offensive or unsightly condition.

2. "Refuse" includes, but is not limited to, the following items or classes of items: waste food; wastepaper and paper products; cans, bottles or other containers; junked household furnishings and equipment; junked parts or bodies of automobiles and other metallic junk or scrap; portions or carcasses of dead animals; and collections of ashes, dirt, yard trimmings or other rubbish. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

B. Littering Prohibited; Enforcement:

1. Whoever commits littering is guilty of a petty misdemeanor.
2. The use of uniform traffic citations is authorized for the enforcement of this section. The court may, to the extent permitted by law, as a condition to suspension of any penalty provided by law, require a person who commits littering to pick up and remove from any public place or private property, with prior permission of the legal owner, any litter deposited thereon.
3. Any jail sentence imposed pursuant to subsection B1 of this section may be suspended, in the discretion of the judge, upon conditions that the offender assist in litter cleanup in the jurisdiction for a period not to exceed the length of the suspended sentence. (Ord. 1992-02, 6-22-1992)

5-2C-13: USE OF ENGINE WITHOUT SPARK ARRESTER:

A. Description: "Use of an engine without a spark arrester" consists of using or operating any locomotive, logging engine, portable engine, traction engine or stationary engine using any combustible fuel when such engine is not provided with an adequate spark arrester kept in constant use and repair.

B. Prima Facie Evidence: Escape of fire or live sparks from any engine shall be prima facie evidence that such engine has not been adequately equipped with a spark arrester in compliance with this section. (Ord. 1992-02, 6-22-1992)

ARTICLE D. OFFENSES RELATING TO MORALS

SECTION:

5-2D-1: Gambling And Related Offenses

5-2D-2: Drinking Alcohol In Public

5-2D-3: Unlawful Possession Of Cannabis Products By A Minor Consists Of A Person Under Age Twenty-One

5-2D-4: Possession, Delivery Or Manufacture Of Drug Paraphernalia Prohibited - Exceptions

5-2D-5: Inhaling Volatile Solvents

5-2D-6: Sale Of Aerosol Spray Paint

5-2D-7: Prostitution

5-2D-8: Indecent Exposure

5-2D-9: Aiding Illegal Activity

5-2D-1: GAMBLING AND RELATED OFFENSES:

A. Definitions: As used in this section, the following words and terms shall have the meanings ascribed to them in this subsection:

BET: A bargain in which the parties agree that, dependent upon chance, even though accompanied by some skill, one stands to win or lose anything of value specified in the agreement; provided, that a "bet" shall not include bona fide business transactions which are valid under the law of contracts, including, without limitations:

1. Contracts for the purchase or sale, at a future date, of securities or other commodities; and
2. Agreements to compensate for loss caused by the happening of the chance, including, without limitations, contracts for indemnity or guaranty and life or health and accident insurance;
3. Offers of purses, prizes, or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the bona fide owners of animals or vehicles entered in such contest;
4. A "lottery" as defined in this subsection; or
5. Betting otherwise permitted by law.

GAMBLING DEVICE: A contrivance which, for a consideration, affords the player an opportunity to obtain anything of value, the award of which is determined by chance even though accompanied by some skill, and whether or not the prize is automatically paid by the device.

GAMBLING PLACE: A building or tent, a vehicle, whether self-propelled or not, or a room within any of them that is not within the premises of a person licensed as a lottery retailer or that is not licensed pursuant to the gaming control act

1. Making and settling of bets;
2. Receiving, holding, recording or forwarding bets or offers to bet;
3. Conducting lotteries; or
4. Playing gambling devices.

LOTTERY: An enterprise wherein, for a consideration, the participants are given an opportunity to win a prize, the award of which is determined by chance even though accompanied by some skill. As used in this definition, "consideration" means anything of pecuniary value required to be paid to the promoter in order to participate in such enterprise. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

B. Gambling: "Gambling" consists of:

1. Making a bet;
2. Entering or remaining in a gambling place with intent to make a bet, to participate in a lottery, or to play a gambling device;
3. Conduct a lottery; or
4. Possessing facilities with intent to conduct a lottery.

C. Permitting Premises To Be Used For Gambling: "Permitting premises to be used for gambling" consists of:

1. Knowingly permitting any property owned or occupied by such person or under his control to be used as a gambling place; or
2. Knowingly permitting a gambling device to be set up for use for the purpose of gambling in a place under his control.

D. Dealing In Gambling Devices:

1. "Dealing in gambling devices" consists of manufacturing, transferring commercially, or possessing with intent to transfer commercially, any of the following:
 - a. Anything which he knows evidences, purports to evidence, or is designed to evidence participating in gambling; or
 - b. Any device which he knows is designed exclusively for gambling purposes or anything which he knows is designed exclusively as a subassembly or essential part of such device. This includes, without limitation, gambling devices, numbers

jars, punchboards, or roulette wheels.

2. Proof of possession of any device designed exclusively for gambling purposes which is not in a gambling place and is not set up for use is prima facie evidence of possession with intent to transfer.

E. Lotteries:

1. Permissive Lotteries:

a. Nothing in subsections B, C and D of this section shall be construed to apply to any sale or drawing of any prize for the benefit of any church, public library, or religious society situated or being in the village, or for charitable purpose. A lottery may be operated for the benefit of the organization or charitable purpose only when the entire proceeds of the lottery go into the organization or charitable purpose and no part of such proceeds goes to any individual member or employee thereof.

b. Nothing in subsections A through D of this section shall be held to prohibit any bona fide motion picture theater from offering prizes of cash or merchandise for advertising purposes in connection with such business or for the purpose of stimulating business, whether or not any consideration other than a monetary consideration in excess of the regular price of admission is exacted for participation in drawings for prizes.

c. Nothing in this subsection E1 and subsections A through D of this section shall be held to apply to any bona fide county or state fair, including fairs for more than one county, which have been held annually at the same location for at least two (2) years and which offer prizes of livestock or poultry in connection with such fair when the proceeds of such drawings shall be used for the benefit of said fair.

2. Fraudulently Operating A Lottery: "Fraudulently operating a lottery" consists of operating or managing any lottery which does not provide a fair and equal chance to all participants, or which lottery is conducted in a manner tending to defraud or mislead the public. (Ord. 1992-02, 6-22-1992)

Notes

¹ 1. NMSA § 60-2E-1 et seq.1, one of whose principal uses is:

5-2D-2: DRINKING ALCOHOL IN PUBLIC:

"Drinking in public" consists of drinking or consuming "alcoholic beverages" (as the term is defined in New Mexico Statutes Annotated section 60-3A-3): (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

A. In any village owned park, except a park in which drinking is expressly permitted by resolution; or

B. In any public way, except a public way within a village owned park in which drinking is expressly permitted by resolution. For purposes of this section, "public way" is defined as the entire width between the property lines of every way publicly maintained when any part thereof is customarily open to the use of the public for the purposes of vehicular travel and includes the street, sidewalk, and other area between the curb lines or lateral lines of the roadway and the adjacent property lines; or

C. In any village owned parking lot, except a parking lot in a village owned park in which drinking is expressly permitted by resolution; or

D. Within one hundred feet (100') of any establishment licensed to dispense alcoholic liquor. (Ord. 1992-02, 6-22-1992)

5-2D-3: UNLAWFUL POSSESSION OF CANNABIS PRODUCTS BY A MINOR CONSISTS OF A PERSON UNDER AGE TWENTY-ONE:

A. Possession up to one-half ounce of a cannabis product and the first offense shall subject the person to a penalty assessment in the amount of fifty dollars (\$50.00);

B. Possessing more than one-half ounce but up to and including one ounce of a cannabis product and on conviction thereof shall be punished by a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) and by imprisonment of not more than fifteen (15) days; and for a second or subsequent offense, shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or by imprisonment up to ninety (90) days, or both.

C. A citation or charge of a minor in possession of cannabis product will be dismissed if the minor is listed on the N.M. Department of Health medical cannabis product patient registry and possesses the corresponding identification card for a qualified patient. (Ord. 1992-02, 6-22-1992; amd. 2003 Code; Ord. 2020-4, 8-11-2020; Ord. 2021-06, 7-13-2021)

5-2D-4: POSSESSION, DELIVERY OR MANUFACTURE OF DRUG PARAPHERNALIA PROHIBITED -- EXCEPTIONS:

A. Definitions:

<p>CONTROLLED SUBSTANCE ANALOG:</p>	<p>Controlled substance analog means a substance, other than a controlled substance, that has a chemical structure substantially similar to that of a controlled substance in schedule I, II, III, IV or V or that was specifically designed to produce effects substantially similar to that of controlled substances in schedule I, II, III, IV or V. Examples of chemical classes in which controlled substance analogs are found include the following:</p> <ol style="list-style-type: none"> 1. Phenethylamines; 2. N-substituted piperidines; 3. Morphinans; 4. Ecgonines; 5. Quinazolinones; 6. Substituted indoles; and 7. Arylcycloalkylamines. <p>Specifically excluded from the definition of "controlled substance analog" are those substances that are generally recognized as safe and effective within the meaning of the federal food, drug and cosmetic act or have been manufactured, distributed or possessed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the federal food, drug and cosmetic act.</p>
<p>DRUG PARAPHERNALIA:</p>	<ol style="list-style-type: none"> 1. All equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter and the state controlled substances act, New Mexico Statutes Annotated section 30-31-2 et seq. It includes, but is not limited to: <ol style="list-style-type: none"> a. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance for which a controlled substance or controlled substance analog can be derived; b. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance or controlled substance analog; c. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or controlled substance analog; d. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of a controlled substance or controlled substance analog; e. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or controlled substance analogs; f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or controlled substance analogs;

	<p>g. Separation gins and sifters used, intended for use, or designed for use in removing seeds from or in otherwise cleaning or refining marijuana;</p> <p>h. Blenders, bowls, containers, spoons, mixing devices and screens or sifting devices used, intended for use, or designed for use in compounding a controlled substance or controlled substance analog;</p> <p>i. Capsules, balloons, envelopes, plastic bags, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or controlled substance analogs;</p> <p>j. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or controlled substance analogs;</p> <p>k. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances or controlled substance analogs into the human body.</p> <p>2. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:</p> <p>a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.</p>
	<p>b. Water pipes.</p> <p>c. Carburetion tubes and devices.</p> <p>d. Smoking and carburetion masks.</p> <p>e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.</p> <p>f. Miniature cocaine spoons and cocaine vials.</p> <p>g. Chamber pipes.</p> <p>h. Carburetor pipes.</p> <p>i. Electric pipes.</p> <p>j. Air-driven pipes.</p> <p>k. Chillums.</p> <p>l. Bongs.</p> <p>m. Ice pipes or chillers.</p>

B. Relevant Factors In Determining Drug Paraphernalia: In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use.
2. The proximity of the object, in time and space, to a direct violation of this section or the state controlled substances act.
3. The proximity of the object to controlled substances or controlled substance analogs.
4. The existence of any residue of controlled substance or controlled substance analog on the object.
5. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of this section or the state controlled substances act; the innocence of an owner, or of anyone in control of the objects, and to a direct violation of this section or the state controlled substances act should not prevent a finding that the object is intended for use, or designed for use as a drug paraphernalia.
6. Instructions, oral or written, provided with the object concerning its use.
7. Descriptive materials accompanying the object which explain or depict its use.
8. National and local advertising concerning its use.
9. The manner in which the object is displayed for sale.
10. Whether the owner, or anyone else in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
11. Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise.
12. The existence and scope of legitimate uses for the object in the community.
13. Expert testimony concerning its use.

C. It is unlawful for a person to use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act. The provisions of this subsection do not apply to a person who is in possession of hypodermic syringes or needles at the time the person is directly and immediately engaged in a harm reduction program, as provided in the Harm Reduction Act.

D. It is unlawful for a person to deliver, possess with intent to deliver or manufacture with the intent to deliver drug paraphernalia with knowledge, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act. The provisions of this subsection do not apply to:

1. Department of health employees or their designees while they are directly and immediately engaged in activities related to the harm reduction program authorized by the Harm Reduction Act; or
2. The sale or distribution of hypodermic syringes and needles by pharmacists licensed pursuant to the Pharmacy Act.

E. A person who violates the provisions of Subsection C of this section shall be issued a penalty assessment and is subject to a fine of fifty dollars (\$50.00). A person who violates the provisions of Subsection D of this section is guilty of a misdemeanor and, upon conviction, may be punishable as provided in section 5-2A-5 of this chapter. (Ord. 1992-02, 6-22-1992; amd. 2003 Code; Ord. 2020-5, 8-11-2020)

5-2D-5: INHALING VOLATILE SOLVENTS:

A. Intent: It is the intent of this section that, in making unlawful inhalation of volatile substances an offense, inhalant abusers can be identified and treated.

B. Definition: As used in this section, the term "volatile solvent" shall include, but not be limited to, the following types of chemical compounds:

1. Hydrocarbons, including, but not limited to, petroleum distillates and aromatic hydrocarbons;
2. Oxygenated organic compounds, including, but not limited to, ketones, esters and ethers;
3. Halogenated hydrocarbons; and
4. Nitrous oxides.

C. Unlawfully Inhaling Volatile Solvents: "Unlawfully inhaling volatile solvents" consists of intentionally smelling, breathing, or inhaling the fumes or vapors from any paint, glue, gasoline, or any similar substance containing one or more volatile solvents for the purpose of causing a condition of intoxication, inebriation, stupefaction, euphoria, exhilaration or the dulling of the brain or the nervous system. (Ord. 1992-02, 6-22-1992)

D. Exemptions: Nothing in this section shall preclude a person from smelling, breathing or inhaling one or more volatile solvents when done under the supervision of a practitioner in the course of his professional practice. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

5-2D-6: SALE OF AEROSOL SPRAY PAINT:

A. Sale To Minors Prohibited: No person shall sell aerosol spray paint in cans to any person under eighteen (18) years of age. A New Mexico driver's license, an identification card issued to a member of the armed forces, or identity card issued pursuant to New Mexico Statutes Annotated section 60-7B-2 shall be prima facie proof of age. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

B. Sign Posted: Any person who owns, manages or operates a place of business wherein aerosol spray paint in cans is sold shall conspicuously post a copy of subsection A of this section in such place of business in letters at least three-eighths inch (3/8") high. (Ord. 1992-02, 6-22-1992)

5-2D-7: PROSTITUTION:

Prostitution is committed when a person knowingly engages or offers to engage in sexual intercourse, fellatio, cunnilingus, intercourse, or masturbation of another for hire. (Ord. 1992-02, 6-22-1992)

5-2D-8: INDECENT EXPOSURE:

"Indecent exposure" is knowingly and indecently exposing the private parts or sexual organs of a person to the public view. (Ord. 1992-02, 6-22-1992)

5-2D-9: AIDING ILLEGAL ACTIVITY:

"Aiding an illegal activity" consists of either:

- A. Being found in any place where gambling or prostitution is being conducted, with knowledge of such activity; or
- B. Giving or attempting to give any signal intended to or calculated to warn or give warning of the approach of any police officer to any person in or about any building, trailer, motor vehicle, premises, or establishment used for any illegal activity or where any illegal activity is being conducted. (Ord. 1992-02, 6-22-1992)

ARTICLE E. OFFENSES RELATING TO MINORS

SECTION:

5-2E-1: Offenses By Children; Parental Responsibility

5-2E-2: Alcoholic Beverages

5-2E-3: Possession Of Spray Paint Cans

5-2E-4: Abandonment Of Dangerous Containers

5-2E-1: OFFENSES BY CHILDREN; PARENTAL RESPONSIBILITY:

A. False Identification: "Offenses by children" consists of any person under the age of eighteen (18) years exhibiting any fictitious or false identification card, note, or other instrument for the purpose of consummating any transaction whatsoever within the village, or for the purpose of deceiving or misleading any other person as to the true age of the minor. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

B. Failure Of Parental Responsibilities: "Failure of parental responsibilities" consists of a person knowingly permitting his child or ward to violate the provisions of subsection A of this section. (Ord. 1992-02, 6-22-1992)

5-2E-2: ALCOHOLIC BEVERAGES:

A. Definition: The term "minor", as used in this section, is a person under twenty one (21) years of age. (2003 Code)

B. Permitting Loitering In Liquor Establishments: "Permitting loitering of minors" consists of the owner or operator of any establishment serving alcoholic beverages permitting a person under the age of twenty one (21) years to attend, frequent, or loiter in or about such premises without being accompanied by the parent or guardian of such person, or to be engaged in the preparation, serving, handling, or delivery of alcoholic beverages, or as a topless, bottomless or dancing entertainer in or about such premises.

C. Sales To, Purchase For Prohibited:

1. It is a violation of this section for any governmental licensee and its lessee, retailer, canopy licensee, dispenser, restaurant licensee, club licensee or any other person, except the minor's parent, guardian, adult spouse or adult person into whose custody any court has committed the minor for the time, outside the presence of the minor's parent, guardian, adult spouse or adult person into whose custody a court has committed the minor for the time, to do any of the following acts:

- a. To sell, serve, or give any alcoholic beverages to a minor or to permit a minor to consume alcoholic beverages on the licensed premises;
- b. To buy alcoholic beverages for or to procure the sale or service of alcoholic beverages to a minor;
- c. To deliver alcoholic beverages to a minor; or
- d. To aid or assist a minor to buy, procure or be served with alcoholic beverages.

2. In any proceedings under subsection C1 of this section, it is not necessary for the prosecution, or any person, official or party urging or contending that such subsection has been violated, to allege or prove that the parent, guardian, adult spouse or any adult person into whose custody any such minor has been committed by any court, was not actually visible and personally present at the time of the alleged violation, but such matters are matters of defense to be established and proved by the person against whom the prosecution or proceedings are brought.

D. Purchase Or Possession Prohibited: It is a violation of this section for a minor to buy, attempt to buy, receive, possess or permit himself to be served with any alcoholic beverage, except when accompanied by his parent, guardian, adult spouse, or adult person into whose custody he has been committed for the time by a court, who is actually visible and personally present at the time the alcoholic beverages are bought, received by him or possessed by him or served or delivered to him.

E. Deception By Persons Representing Minors: In the event any person except a minor procures any other person to sell, serve or deliver any alcoholic liquor to a minor by actual or constructive misrepresentation of any facts calculated to cause, or by a concealment of any facts, the concealment of which is calculated to cause the person selling, serving or delivering the alcoholic liquors to the minor, to believe that such person is legally entitled to be sold, served or delivered the alcoholic liquors and actually deceiving him by such misrepresentation or concealment, then that person, and not the person so deceived by such misrepresentation or concealment, shall have violated this section.

F. Violation By Minors: Violation of this section with respect to possession is a petty misdemeanor by a minor under twenty one (21) years of age. Any sentence imposed pursuant to this subsection may be suspended in the discretion of the court upon the condition that:

1. The minor relinquish his driver's license for a period not to exceed three (3) months, whereupon the trial court may dismiss the possession of alcoholic liquor charge, and it shall not be considered a conviction. In the event the minor's driver's license is relinquished, the trial court shall inform the motor vehicle division of the action; provided, however, if the minor drives during the period of relinquishment, then the court may impose a fine, jail sentence or both, such fine and sentence not to exceed the maximum imposed for petty misdemeanors or may impose punishment pursuant to subsection F2 of this section.

2. The minor assist in a community project, designated by the court, up to fifty (50) hours, whereupon the trial court may dismiss the possession of alcoholic liquor charge, and it shall not be considered a conviction. (Ord. 1992-02, 6-22-1992)

5-2E-3: POSSESSION OF SPRAY PAINT CANS:

No person under eighteen (18) years of age shall have in his possession any can of aerosol spray paint while in any public place, except under the supervision of a parent or other parentally approved adult supervisor whether such person is or is not in any automobile, vehicle, or other conveyance. A New Mexico driver's license or other approved forms of identification shall be prima facie proof of age. (Ord. 1992-02, 6-22-1992; amd. 2003 Code)

5-2E-4: ABANDONMENT OF DANGEROUS CONTAINERS:

"Abandonment of dangerous containers" consists of any person:

A. Abandoning, discarding, or keeping in any place accessible to children any refrigerator, icebox, freezer, airtight container, cabinet, or similar container of a capacity of one and one-half (1 1/2) cubic feet or more, which is no longer in use, without having the attached door, hinges, lids, or latches removed or without sealing the doors or other entrances so as to make it impossible for anyone to be imprisoned therein.

B. Being the owner, lessee, or manager of any premises with the right of entry or possession thereof, who knowingly permits any abandoned or discarded refrigerator, icebox, freezer, airtight container, cabinet or similar container of a capacity of one and one-half (1 1/2) cubic feet or more, and which remains on the premises in a condition whereby a child may be imprisoned therein. (Ord. 1992-02, 6-22-1992)

CHAPTER 3

ANIMAL CONTROL

ARTICLE A. GENERAL ANIMAL CONTROL PROVISIONS

SECTION:

5-3A-1: Definitions

5-3A-2: Running At Large; Tethering Or Herding Animals

5-3A-3: Noisy Animals

5-3A-4: Animal Abuse

5-3A-5: Wild And Exotic Animals

5-3A-6: Livestock

5-3A-7: Vicious Animals

5-3A-8: Enforcement Officials

5-3A-9: Private Complaint Or Citation To Appear

5-3A-10: Violation; Penalties

5-3A-11: Causing A Nuisance Game Animal Problem

5-3A-1: DEFINITIONS:

As used in this chapter, the following words and terms shall, unless the context indicates a different meaning, have the meanings given herein:

ANIMAL: All vertebrates, excluding man.

ANIMAL CONTROL OFFICER: The animal control officer or law enforcement officer of the village.

ANIMAL CONTROL ZONE: That area within the incorporated village limits.

ANIMAL SHELTER: Any establishment authorized by the village for the care and custody of impounded animals.

BITE: A puncture or tear of the skin inflicted by the teeth of an animal.

EXOTIC ANIMAL: An animal which is rare or different from ordinary domesticated animals and is not indigenous to the state.

KEEPER: Any person who owns, harbors, keeps or has control or custody of an animal for more than six (6) days; provided, that this term shall not apply to veterinarians or kennel owners temporarily maintaining on their premises animals owned by others.

KENNEL: An establishment for the breeding and boarding of dogs and cats.

NUISANCE: Means, but is not limited to, activities disturbing the peace, loud noises, emitting noxious or offensive odors, or otherwise endangering or offending the environment of the village.

QUARANTINE: To detain or isolate an animal suspected of being infected with rabies.

RUNNING AT LARGE: An animal off the premises of the keeper and not under control of a competent person. Direct control means connected by a secure leash not over ten feet (10') in length or some other equivalent means of direct control.

STRAY OR ESTRAY: Any animal that has no identifiable keeper.

VACCINATION: The vaccination of an animal with an anti-rabies vaccine approved by the secretary of the state health department and administered under the supervision of a veterinarian.

VETERINARIAN: Any veterinarian licensed in the state.

VICIOUS ANIMAL: Any animal which commits an unprovoked attack upon a person or other animal on private property, or which terrorizes or attacks a person on public property or in a public place.

WILD ANIMAL: Any animal which is wild by nature and is not domesticated or controlled. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

5-3A-2: RUNNING AT LARGE; TETHERING OR HERDING ANIMALS:

A. Prohibitions:

1. It is unlawful for any domestic livestock, including, but not limited to, meat cattle, horses, mules, donkeys, burros, swine, goats, sheep, fowl, cats, dogs or other animals, to be turned loose, abandoned or to willfully be allowed to run at large within the village limits or to trespass upon cultivated fields and gardens of any person or for any such animal to be tethered that it may roam across or into any street or public place in the village limits; and it is unlawful for any person to herd or detain such animals in any street, avenue, alley or other public place in the village limits. The owner of any livestock willfully allowing the livestock to run at large within the limits of the village or to trespass upon the property of another is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of section 1-4-1 the village code and may be liable for the damage occasioned by the trespass.

2. No owners of any property trespassed upon as mentioned in this section shall be liable for the injury, death or loss of any livestock resulting during the expulsion from or impounding upon his property of the livestock actually trespassing.

B. Nuisance Declared: Any animal found running at large in violation of this section is declared to be a nuisance and a menace to the public health and safety and, if observed by the village animal control officer or police officer, may be impounded. (Ord. 2004-08, 11-4-2004; amd. 77-14-7 NMSA 1978; Ord. 2020-3, 8-11-2020)

5-3A-3: NOISY ANIMALS:

It is unlawful for a keeper to allow any animal to persistently bark, howl, or make noise or to be kept or maintained in such a manner as to disturb or otherwise endanger the health and welfare of the inhabitants of the neighborhood. (Ord. 1995-06, 7-27-1995)

5-3A-4: ANIMAL ABUSE:

A. Cruelty To Animals:

1. **Physical Abuse:** It is unlawful for any person to maliciously kill, maim, torture, mutilate, burn or to cruelly drive or work any animal.

2. **Poisoning:** It is unlawful to poison domestic animals or to distribute poison or intoxicants in any manner with the intent of so poisoning.

3. **Food, Drink And Shelter; Carrying In Vehicles:** It is unlawful for any keeper to fail to provide an animal with proper food, drink and shelter, or to carry an animal in or upon any vehicle in a cruel or inhumane manner.

B. Abandonment: It is unlawful to abandon any animal within the village limits.

C. Causing Animals To Fight: It is unlawful to cause, instigate, or promote any fight in which two (2) or more animals are engaged for the purpose of injuring, maiming or destroying themselves or other animals.

D. Use As Prize, Novelty Or Incentive: It is unlawful to sell, offer for sale, barter, or give away any live animal as a premium, prize, award, novelty, or incentive to purchase merchandise.

E. Dyeing Certain Animals: It is unlawful to color, stain or dye chickens, ducklings or fowl. (Ord. 1995-06, 7-27-1995)

5-3A-5: WILD AND EXOTIC ANIMALS:

A. Keeping Certain Animals Prohibited: Keeping the following animals is prohibited:

1. Wild animals kept so as to constitute a likelihood of harm to the animals themselves or to other animals, or to human beings, or which constitute a public or private nuisance.

2. Exotic or wild animals prohibited by federal or state law or regulation.

B. Permit Required: No person shall receive, purchase, own or keep wild or exotic animals without first applying for and

receiving from the state department of game and fish a permit to do so. Upon receiving the state permit, the applicant shall abide by all state rules and regulations. (Ord. 1995-06, 7-27-1995)

5-3A-6: LIVESTOCK:

It is unlawful for any person to keep or harbor any cows, hogs, sheep, goats or other farm animals with the exception of horses for hire as a business under business licensing in a commercial zone within the village limits. Those animals that are in the land use area designated as farm or agriculture are excepted herefrom. (Ord. 1995-06, 7-27-1995)

5-3A-7: VICIOUS ANIMALS:

A. It is unlawful for any person to keep or harbor any animal known to be vicious and liable to attack and injure human beings unless such animal is securely kept so as to prevent injury to any person.

B. It is unlawful to keep any unvaccinated dog or cat or any animal which has shown any symptoms of rabies.

C. It is unlawful to fail or to refuse to destroy vicious animals or unvaccinated dogs or cats with symptoms of rabies as prescribed by regulation of the state department of health for the protection of public health and safety. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

5-3A-8: ENFORCEMENT OFFICIALS:

A. Designated: The village may appoint by contract or hire under the direction of the chief of police an animal control or law enforcement officer whose duties shall be as prescribed in this chapter. (Ord. 1995-06, 7-27-1995)

B. Authority: The appointed animal control officer or all law enforcement officers of the village shall have the authority to issue a citation for violation of this chapter as prescribed by the New Mexico state statutes and to perform such duties as are prescribed herein. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

C. Interference With Enforcement Officials: It is unlawful for any person to interfere with, molest, hinder or obstruct the village animal control officer or law enforcement officers in the discharge of their official duties. (Ord. 1995-06, 7-27-1995)

5-3A-9: PRIVATE COMPLAINT OR CITATION TO APPEAR:

The private complaint or citation shall notify violators to appear before the municipal judge and answer charges of violations of any provisions of this chapter that may be requested. Any person who fails to appear before the municipal judge for any violation of this chapter within the time set forth in the complaint is guilty of a petty misdemeanor regardless of the disposition of the original charge for which he was cited. (Ord. 1995-06, 7-27-1995)

5-3A-10: VIOLATION; PENALTIES:

A. Violation; General Penalty: Any person who violates any of the provisions of this chapter is guilty of a petty misdemeanor and shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this code for each violation.

B. Penalty Assessment ¹

C. Liability For Violations: For the purpose of prosecution for violation of this chapter, it shall not be necessary, in order to obtain a conviction, to prove notice or knowledge on part of the owner, possessor, or keeper of the animal in question that such animal was violating any of the provisions of this chapter at the time and place charged; it being the purpose and intent of this chapter to impose strict liability upon the owner, possessor, or keeper of any animal for the actions, conduct and condition of such animal. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

Notes

¹ 1. See also subsection 1-4-2A1 of this code.1: In addition to any fine established in this chapter, there shall be a penalty assessment of ten dollars (\$10.00) to help defray the costs of local government corrections.

5-3A-11: CAUSING A NUISANCE GAME ANIMAL PROBLEM:

It shall be unlawful for any person, by intention or through negligence, to cause a nuisance game animal problem by baiting, feeding, or otherwise enticing game animals to an area or harassing game animals by spotlighting, treeing, or chasing with any motor vehicle, and such persons, if convicted, may be subject to penalty as provided in section 1-4-1 of this code for each violation.

A. Residential Refuse Disposal: All refuse containers that receive garbage and/or refuse edible by wildlife must be secured in a manner that does not create an attraction for wildlife.

B. Special Event Refuse Disposal: Outdoor special event sites shall be kept free from the accumulation of refuse edible by wildlife. Refuse must be collected from the grounds at the close of each day's activities and shall be deposited into appropriate containers or enclosures, or be removed to an appropriate disposal site.

C. Construction Site Refuse Disposal: All construction sites must have a designated container that receives refuse edible by wildlife. The refuse in this container shall be emptied at the end of each workday and deposited into appropriate containers or enclosures, or be removed to an appropriate disposal site.

D. Feeding Of Wildlife Prohibited:

1. Intentional Or Unintentional: No person shall intentionally or unintentionally feed or provide food in any manner for wildlife on public or private property within the village of Angel Fire. A person will be considered to be in violation of this

section if they leave or store any garbage, refuse, food product, pet food, grain or salt in a manner which would create a lure, attraction or enticement for wildlife.

2. Exceptions: This regulation shall not apply to:

a. Any individual, company or corporation that is duly licensed by the state of New Mexico or otherwise entitled under law to possess a wildlife species;

b. Any action that is officially sanctioned by the state of New Mexico that would require feeding, baiting, or luring of wildlife (an example of one such action would be scientific projects dealing with capturing and tagging wildlife);

c. The feeding of wild birds, unless the bird feed begins to attract other forms of wildlife.

E. Enforcement: The village of Angel Fire police and code enforcement officers shall have the power to issue a warning notice or a summons and complaint to any person in violation of this section.

F. Violator's Responsibilities: In addition to the penalties outlined in this section, violators will be required to perform all necessary actions to remove or abate attractants of wildlife. This may include, but shall not be limited to: the removal of bird feeders or pet food, cleaning or appropriate storage of barbecue grills, and/or the required use of wildlife resistant containers and/or wildlife proof containers.

G. Notice Of Violation: A resident shall be deemed to have been issued an appropriate notice of violation if it is personally served upon the resident, posted on the resident's premises, or placed in the U.S. mail, postage prepaid and addressed to the resident according to the last known address given by the resident to any of the village of Angel Fire government departments. If the identity of the resident is not known, the entity responsible for payment of the garbage removal services for the subject location will be held responsible for complying with this section and for any penalties assessed pursuant to the same. (Ord. 2004-09, 11-4-2004)

ARTICLE B. DOGS AND CATS

SECTION:

5-3B-1: Running At Large Prohibited

5-3B-2: Certain Dogs And Cats At Large Declared Public Nuisance

5-3B-3: Confinement During Estrus

5-3B-4: Public Awareness

5-3B-5: Number Of Dogs And Cats Restricted

5-3B-1: RUNNING AT LARGE PROHIBITED:

It shall be unlawful for any keeper of a dog or cat to permit such animal to run at large in any part of the village limits except on his own premises, or unless such dog is in the direct control of such keeper, as herein set forth. The keeper of any dog or cat which runs at large shall be liable for any and all damage which it may cause to the person or property of another. (Ord. 1995-06, 7-27-1995)

5-3B-2: CERTAIN DOGS AND CATS AT LARGE DECLARED PUBLIC NUISANCE:

Every fierce, dangerous or vicious dog or cat, or female dog or cat in estrus (heat), when running at large, is hereby declared to be a public nuisance; and it may be the duty of the animal control officer to confine any such dog or cat or if necessary, to destroy such dog or cat at once. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

5-3B-3: CONFINEMENT DURING ESTRUS:

Any female dog or cat in the state of estrus (heat) shall be confined to a building or other secure enclosure so that contact with a male animal of the same species will be prevented except for intentional breeding purposes. Keepers who do not comply with this section may be required to place such animal in a boarding kennel or veterinary hospital at the keepers' expense. (Ord. 1995-06, 7-27-1995)

5-3B-4: PUBLIC AWARENESS:

Each dog or cat shall be licensed for identification. This will prevent said dog or cat from being picked up as a stray. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

5-3B-5: NUMBER OF DOGS AND CATS RESTRICTED:

No person, group of persons, or business entity in the animal control zone may own, keep or harbor more than four (4) dogs or cats, or any combination thereof, which are three (3) months of age or older, without obtaining a variance from the village. Persons may apply for a variance, and a notice thereof shall be posted in a conspicuous place on the applicant's property. For approval, the village clerk shall put the application for variance on the next regular business meeting agenda to the village council. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

ARTICLE C. IMPOUNDMENT AND REDEMPTION PROVISIONS

SECTION:

5-3C-1: Animal Pound

5-3C-2: Impoundment; Entry Powers

5-3C-3: Record Of Impounded Animals

5-3C-4: Notice Of Impoundment

5-3C-5: Complaint Filed In Municipal Court

5-3C-6: Care Of Impounded Animals

5-3C-7: Redemption Provisions; Disposition

5-3C-8: Animal Held On Complaint

5-3C-9: Breaking Into Pound; Interfering With Animal Control Officer

5-3C-1: ANIMAL POUND:

The village council may establish an animal pound for the village to be operated by village personnel, or at its election, it may contract with a public or private person or organization for the operation of a dog or cat pound for and on behalf of the village. (Ord. 1995-06, 7-27-1995)

5-3C-2: IMPOUNDMENT; ENTRY POWERS:

A. Authority To Impound: It is lawful for the village animal control officer to impound any dog or cat which he has probable cause to believe is in violation of any of the provisions of this chapter.

B. Entry Powers:

1. It is lawful for the village animal control officer to go upon private property for the purpose of catching any dog or cat to be impounded. (Ord. 1995-06, 7-27-1995)

2. The animal control officer, in performance of his duties, may enter upon any lot, tract or parcel of land for the purpose of apprehending animals running at large and stray animals. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

5-3C-3: RECORD OF IMPOUNDED ANIMALS:

The animal control officer, upon the impounding or receiving of any animal, shall register such animal by entering the breed, color, and sex of the animal and the time and place such animal was apprehended into the registry kept for this purpose. (Ord. 1995-06, 7-27-1995)

5-3C-4: NOTICE OF IMPOUNDMENT:

If the owner or possessor of the impounded animal is known, he must be notified by telephone or by regular mail. If notified by mail, the notice shall describe the animal and set forth the date of impoundment and place where impounded. If the owner or possessor of the animal is not known, notice of the impoundment shall be posted at the Angel Fire village hall for a period of seven (7) days. (Ord. 1995-06, 7-27-1995)

5-3C-5: COMPLAINT FILED IN MUNICIPAL COURT:

If an animal is impounded, the village animal control officer shall immediately institute proceeding in the municipal court on behalf of the village against the owner, possessor, or keeper of such animal, if known, charging the owner, possessor, or keeper with a violation of the appropriate section. Nothing herein contained shall be construed as preventing the village animal control officer or any citizen from instituting a proceeding in the municipal court in the village for violation of this chapter where there is no impoundment. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

5-3C-6: CARE OF IMPOUNDED ANIMALS:

The animal control officer may impound every animal found running at large in violation of this chapter and shall provide proper care and sustenance for such animal impounded at the expense of the owner, if known. (Ord. 1995-06, 7-27-1995)

5-3C-7: REDEMPTION PROVISIONS; DISPOSITION:

A. Redemption Upon Payment Of Costs: The owner or possessor of any animal which has been impounded under the provision of this chapter shall have the right to redeem the animal upon payment of the impounding fee, care and feeding charges, veterinary charges, and such other costs attributable to such impoundment.

B. Fees:

1. The following fees shall be charged for the impoundment of any animal under the provisions of this article:

First redemption within calendar year	\$15.00
Second redemption within calendar year	35.00
Third redemption within calendar year	75.00

(Ord. 1995-06, 7-27-1995)

2. Whenever any animal is impounded, an additional fee of fifteen dollars (\$15.00) or the cost for boarding shall be

charged for each day, or fraction thereof, of impoundment for feeding and caring for such animal. In addition, should the services of a veterinarian be required, in the opinion of the animal control officer, his fees shall be added. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

C. Time For Redemption; Disposition: All impounded animals shall be redeemed within ten (10) days after impoundment. Any animal not redeemed within the required period shall become the property of the village and may be placed for adoption upon the payment of the fee, care and feeding charges, veterinary charges, and such other costs as set by the animal control officer, or the animal may be humanely destroyed by the village animal control officer or person authorized to do so by the village council. (Ord. 1995-06, 7-27-1995)

5-3C-8: ANIMAL HELD ON COMPLAINT:

If a complaint has been filed in the municipal court against the owner, possessor, or keeper of any impounded animal for a violation of this chapter, the animal shall not be released except upon order of the court, which may also direct the owner, possessor, or keeper to pay any penalties for violation of this chapter in addition to all impounding fees, care and feeding charges and veterinary fees. (Ord. 1995-06, 7-27-1995)

5-3C-9: BREAKING INTO POUND; INTERFERING WITH ANIMAL CONTROL OFFICER:

Any person who shall break into or in any manner, directly or indirectly, aid in breaking into the enclosure in which any animal is impounded, without having paid all costs, charges and fees herein provided for, or who shall wilfully or intentionally hinder or obstruct the animal control officer in the discharge of his official duty under the provisions of this chapter, shall be, upon conviction, punished as provided by the law. (Ord. 1995-06, 7-27-1995)

ARTICLE D. VACCINATION AND CERTIFICATES

SECTION:

5-3D-1: Vaccination Certificates And Tags

5-3D-2: Report Of Human Exposure To Rabies

5-3D-3: Quarantine

5-3D-4: Dogs And Cats Bitten By Rabid Animals

5-3D-5: Bites By Wild Animals

5-3D-1: VACCINATION CERTIFICATES AND TAGS:

A. Tags To Be Worn; Restrictions:

1. The rabies tag shall be affixed to a dog or cat at all times except when the dog or cat is being kept in an approved kennel, veterinary hospital or training class.
2. No person shall affix to the collar or harness of any dog or cat, or permit to remain so affixed, a tag evidencing rabies inoculation except the dog or cat tag issued to that dog or cat. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

B. Certificates Available:

1. The rabies certification of all dogs or cats shall be retained by the owner and shall be available for inspection by any person charged with enforcement of this chapter.
2. Every person who keeps a vaccinated dog or cat must exhibit his copy of the certificate of vaccination upon demand of the animal control officer charged with the enforcement of this chapter. (Ord. 1995-06, 7-27-1995)

C. Harboring Unvaccinated Dogs Or Cats: It is unlawful for any person to keep a dog or cat which has not been vaccinated against rabies as provided herein. The penalty for violation of this subsection shall be a fine as provided in section 1-4-1 of this code. (Ord. 1996-01, 3-14-1996, eff. 3-20-1996; amd. 2003 Code)

5-3D-2: REPORT OF HUMAN EXPOSURE TO RABIES:

Any person with knowledge that an animal has bitten a human being shall immediately report the incident to the animal control officer and to the local district health office. Every physician or other health care professional who treats a person for such a bite shall report treatment to the local district health office within twelve (12) hours of such treatment. Such treatment must specify the name and address of the person bitten. (Ord. 1995-06, 7-27-1995)

5-3D-3: QUARANTINE:

A. Generally: Any district health officer may declare a quarantine against rabies within the health district of his jurisdiction when, in his judgment, rabies exists to the extent that it is a danger to public health. Upon such declaration, all dogs or cats within the health district shall be confined on the premises of the owner, possessor or keeper, in a veterinary hospital, commercial dog kennel or in a municipal animal shelter. After reasonable effort to apprehend any dog or cat running at large and uncontrolled by its owner, possessor, or keeper during a period of quarantine, any peace officer may kill the dog or cat and properly dispose of the body. A quarantine shall not be removed except by order of the district health officer.

B. Rabies Suspects: Any dog or cat which has bitten a person shall be confined and observed for a period of ten (10) days from the date of the bite at the animal shelter, a veterinary hospital, or an approved kennel; provided, however, that if the animal has a current vaccination for rabies and the area involved is not under quarantine for rabies, the animal control

officer may permit quarantine of such animal at the owner's home. Home confinement shall not be permitted unless the premises have been inspected and approved for such purpose by the animal control officer.

C. Enforcement: It is unlawful to remove any dog or cat from enforced quarantine during the period of confinement without consent of the responsible animal control officer. (Ord. 1995-06, 7-27-1995)

5-3D-4: DOGS AND CATS BITTEN BY RABID ANIMALS:

Any dog or cat bitten by an animal known or proved to be rabid shall be destroyed immediately by its owner or by an animal control officer; provided, that any animal which has received its first vaccination at least three (3) weeks before being bitten shall be confined for ninety (90) days. At the end of the confinement period, the animal shall be released if declared free of rabies by a veterinarian. If, as determined by the veterinarian, the animal develops rabies during the period of confinement, the owner or keeper shall have it destroyed and properly disposed of. The owner of the bitten dog or cat shall be responsible for all expenses incurred for confinement, destruction, and disposing of the animal. (Ord. 1995-06, 7-27-1995; amd. 2003 Code)

5-3D-5: BITES BY WILD ANIMALS:

Bites inflicted by animals other than dogs and cats must be reported to human services and discussed with the local district health officer for proper disposition. (Ord. 1995-06, 7-27-1995)

TITLE 6
MOTOR VEHICLES AND TRAFFIC

CHAPTER 1
UNIFORM TRAFFIC ORDINANCE

SECTION:

6-1-1: Ordinance Adopted; Copies

6-1-2: Amendments To Traffic Ordinance (Rep. by Ord. 2003-01, 1-20-2003, eff. 1-26-2003)

6-1-3: Penalty Assessment Program

6-1-1: ORDINANCE ADOPTED; COPIES:

A. Adopted: Except as otherwise provided in this chapter, the 2010 amendments to the 2004 uniform traffic code and all subsequent amendments adopted by the state of New Mexico after this date, are adopted by reference pursuant to New Mexico Statutes Annotated section 3-17-6A.

B. Copies:

1. A copy of the 2010 New Mexico uniform traffic ordinance, as amended, is available for inspection during normal and regular business hours at the village hall, Monday through Friday from eight o'clock (8:00) A.M. to five o'clock (5:00) P.M.

2. A copy of the village 2010 New Mexico uniform traffic ordinance may be purchased from the village clerk at the cost of fifty dollars (\$50.00).

(Ord. 2010-17, 12-21-2010; amd. Ord. 2024-02, 7-9-2024)

6-1-2: AMENDMENTS TO TRAFFIC ORDINANCE:

(Rep. by Ord. 2003-01, 1-20-2003, eff. 1-26-2003)

6-1-3: PENALTY ASSESSMENT PROGRAM:

A. Short Title: This section may be cited as the *VILLAGE OF ANGEL FIRE PENALTY ASSESSMENT PROGRAM*.

B. Penalty Assessments:

1. As used in the New Mexico uniform traffic ordinance.

Common Name of Offense	Section Violated	Current Penalty Assessment	Proposed Penalty Regular	Proposed Penalty Construction
Flashing signals	12-5-8	\$30.00	\$60.00	
Speed regulations	12-6-1			
a. Up to and including 10 miles an hour over speed limit		\$30.00	\$60.00	\$85.00

b. From 11 up to and including 15 miles an hour over speed limit		\$60.00	\$90.00	\$140.00
c. From 16 up to and including 20 miles an hour over speed limit		\$92.00	\$120.00	\$197.00
d. From 21 up to and including 25 miles an hour over speed limit		\$126.00	\$156.00	\$256.00
e. From 26 up to and including 30 miles an hour over speed limit		\$151.00	\$181.00	\$306.00
f. From 31 up to and including 35 miles an hour over speed limit		\$175.00	\$205.00	\$355.00
g. More than 35 miles an hour over speed limit		\$246.00	\$276.00	\$451.00
Minimum speed regulations	12-6-1.5	\$25.00	\$55.00	
Driving on divided streets	12-6-2.1	\$55.00	\$85.00	
Overtaking a vehicle on the left	12-6-2.3	\$45.00	\$75.00	
Limitations on overtaking on the left	12-6-2.4	\$45.00	\$75.00	
Overtaking a vehicle on the right	12-6-2.6	\$45.00	\$75.00	
No passing zones and restrictions on passing	12-6-2.7	\$50.00	\$85.00	
Following too closely	12-6- 2.13	\$45.00	\$75.00	
Vehicle approaching or entering intersection	12-6-4.1	\$45.00	\$75.00	
Vehicle turning left at intersection	12-6-4.2	\$45.00	\$75.00	
Vehicle entering stop or yield intersection	12-6-4.3	\$45.00	\$75.00	
Limitations on turning around	12-6-5.5	\$45.00	\$75.00	
Starting parked vehicle	12-6-5.7	\$50.00	\$80.00	
Turning and stopping movements required signals	12-6-5.8	\$45.00	\$75.00	
Stopping, standing and parking	12-6-6	\$25.00	\$55.00	
Special stops required	12-6-7	\$50.00	\$80.00	
Stopping for school bus	12-6-7.3	\$200.00	\$350.00	
Careless driving	12-6- 12.4	\$125.00	\$155.00	
Limitations on backing	12-6- 12.9	\$50.00	\$80.00	
Child not in restraint device or safety belt	12-6- 13.12	\$65.00	\$95.00	
Unfastened safety belt	12-6- 13.13	\$40.00	\$75.00	
Drivers to exercise due care	12-6- 14.8	\$50.00	\$80.00	
Parking in designated parking spaces (handicapped)	12-9-9	\$250.00	\$280.00	
When lighted lamps are required	12-10- 1.3	\$50.00	\$80.00	
Headlamps on vehicle	12-10- 1.5	\$50.00	\$80.00	
Dimming of lights	12-10- 1.6	\$50.00	\$80.00	
Taillamps	12-10- 1.7	\$65.00	\$95.00	
Mufflers, prevention of noise	12-10- 1.10	\$45.00	\$75.00	
Lamps or flag on projecting load	12-10- 1.11	\$45.00	\$75.00	

2. The term "penalty assessment misdemeanor" does not include any violation which has caused or contributed to the cause of an accident resulting in injury or death to any person or property.

3. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, no fine imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor, and no probation imposed upon a suspended or deferred sentence shall exceed ninety (90) days.

4. In addition to the penalty assessment established for each petty penalty assessment misdemeanor pursuant to this section, there shall be assessed a penalty assessment fee of fifty dollars (\$50.00)².

C. Penalty Assessment:

1. Unless a warning notice is given at the time of arrest for any penalty assessment petty misdemeanor, the arresting officer shall offer the alleged violator the option of accepting a penalty assessment. The violator's signature on the penalty assessment notice constitutes an acknowledgment of guilt of the offense stated in the notice, and payment of the prescribed penalty assessment is a complete satisfaction of the violation.

2. Payment of any penalty assessment must be made to the municipal court, village of Angel Fire, New Mexico, within thirty (30) days from the date of the citation. Payments of penalty assessment are timely if postmarked within the time limits set from the date of the citation. The municipal court shall issue a receipt when a penalty assessment is paid.

3. No record of any penalty assessment payment is admissible as evidence in any court in any civil action.

D. Failure To Pay Penalty Assessment:

1. If a penalty assessment is not paid within thirty (30) days from the date of the citation, the violator shall be prosecuted for the violation charged on the penalty assessment notice in a manner as if a penalty assessment notice had not been issued. Upon conviction in such prosecution, the court shall impose penalties as provided by the New Mexico uniform traffic ordinance (section 12-12-1.1) or other law relating to motor vehicles for the particular offense charged, and the schedule of penalty assessment shall not apply.

2. In addition to the prosecution provided for in subsection D1 of this section, it is a misdemeanor for any person who has elected to pay a penalty assessment to fail to do so within thirty (30) days from the date of citation.

3. The office of the municipal court may notify the division of motor vehicles of the state of New Mexico when a person fails to pay a penalty assessment within the required period of time. The department of motor vehicles shall report the notice upon the driver's record and shall not renew the person's license until the office of municipal court notifies the department of motor vehicles that the penalty assessment, or its equivalent, as well as any additional penalties imposed, are properly disposed of.

Notes:

¹ 1. See section 6-1-1 of this chapter. 1. adopted by reference by the village of Angel Fire, New Mexico, "penalty assessment misdemeanor" means violation of any of the following listed sections of the New Mexico uniform traffic ordinance, for which the listed penalty assessment is established:

² 1. See also subsection 1-4-2A1 of this code. 1. to help defray the costs of local government corrections.
(Ord. 2010-17, 12-21-2010; amd. Ord. 2024-02, 7-9-2024)

CHAPTER 2

SNOWMOBILES

SECTION:

6-2-1: Definitions

6-2-2: Registration, Compliance And Insurance Required

6-2-3: General Operating Provisions

6-2-4: Unlawful Operations

6-2-5: Accident Reports

6-2-6: Enforcement

6-2-7: Violation; Penalties

6-2-1: DEFINITIONS:

As used in this chapter, the following terms shall have the meanings indicated herein, unless the context otherwise clearly implies that another meaning is intended:

OPERATOR: Shall include every person who operates or is in actual physical control of the operation of a snowmobile.

OWNER: Any person, other than a lienholder, having title by a bill of sale or other proof of ownership of a snowmobile.

PERSON: Includes an individual, partnership, association, corporation and any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization.

ROADWAY: Shall include only those portions of the village streets and alleys designed, designated or ordinarily used for travel or parking of motor vehicles.

SNOWMOBILE: Any motorized vehicle designed for operation on snow or ice, principally for recreational purposes, which

uses sled-type runners or skis and an endless-belt track, or a similar means of contact with the surface upon which it is operated, but does not include any farm implement or any military or law enforcement vehicle. (Ord. 1995-07, 7-27-1995; amd. 2003 Code)

6-2-2: REGISTRATION, COMPLIANCE AND INSURANCE REQUIRED:

A. Registration And Compliance: The owner of a snowmobile shall register such vehicle in accordance with the applicable laws of the state, and shall further comply with all provisions of the state laws concerning snowmobiles.

B. Liability Insurance: The operator of a snowmobile is required to have liability insurance as provided for in the motor vehicle code for motor vehicles of the state. (Ord. 1995-07, 7-27-1995)

6-2-3: GENERAL OPERATING PROVISIONS:

A. Operation On Village Roadways By Police Permitted: Angel Fire police officers may operate snowmobiles on all municipal roadways when necessary for the purpose of enforcement of this chapter and/or under emergency conditions.

B. Operation On State Highways: All state highways shall remain closed to all snowmobiles except as stated in subsections A and H of this section.

C. Prohibited And Restricted Locations:

1. Golf Courses; Ski Areas; Vacant Lots: Snowmobiles must not be operated on the golf course, in the ski area, or on vacant lots.

2. Private Property: Snowmobiles will not be operated on private property without the written permission of the property owner in the snowmobile operator's possession.

3. Sidewalks: At no time shall snowmobiles be operated on sidewalks.

D. Hours Riding Prohibited: Snowmobiles shall not be operated during the hours of nine o'clock (9:00) P.M. to eight o'clock (8:00) A.M. local time.

E. Operate With Care:

1. The operator of a snowmobile must obey speed limits and conform to all safety laws of the state, the county and the village.

2. The operator of a snowmobile must be on the lookout for pedestrians as well as cross country skiers at all times.

F. When Riding To Far Right Not Practicable:

1. It shall not be practicable to ride as near to the right side of the roadway under the following circumstances:

a. When overtaking and passing another vehicle proceeding in the same direction.

b. When reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, or surface hazards.

2. Where conditions permit, the snowmobile may be operated on the right hand side of a roadway, parallel, but not closer than ten feet (10'), to the inside of the plow bank.

G. Right Of Way:

1. Generally: Snowmobiles shall yield the right of way to automobiles at all times. (Ord. 1995-07, 7-27-1995; amd. 2003 Code)

2. Emerging From Alley, Driveway, Building; Approaching Sidewalk: The operator of a snowmobile emerging from an alley, driveway, or building, or upon approaching a sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles and pedestrians approaching on said roadway.

H. Crossing Roadways: The operator of a snowmobile may make a direct crossing of a roadway or highway where such crossing is necessary to get to another authorized area of operation. Such crossings shall be made at an angle of approximately ninety degrees (90°) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing. The snowmobile shall come to a complete stop before entering upon any part of the highway or road, the operator shall yield the right of way to all oncoming traffic and shall begin crossing only when it can be executed safely and then cross in the manner as close to a perpendicular angle as possible.

I. Parking: No person shall park a snowmobile upon a roadway other than upon the roadway against the curb or upon the sidewalk in such a manner as to afford the least obstruction to pedestrian and/or vehicular traffic.

J. Attaching To Vehicles; Towing:

1. No person riding upon any snowmobile shall attach the snowmobile or himself to any vehicle upon the street or roadway.

2. No person shall be towed behind a snowmobile unless the conveyance towed is specifically designed for and sold for the intended purpose of towing behind a snowmobile.

K. Minors:

1. Operating Snowmobiles: Children operating snowmobiles must be properly trained in the driving of snowmobiles and must know all rules and regulations and must be under the direct control of a licensed parent or guardian at all times while operating a snowmobile.

2. No person under the age of eighteen (18) shall operate a snowmobile or be a passenger thereof unless said person is wearing a safety helmet securely fastened to the head in a normal manner as headgear.

3. No dealer or person who leases or rents snowmobiles shall lease or rent a snowmobile to a person under the age of eighteen (18) unless the lessee or renter shows such person a valid operator's license and possesses the safety equipment required of the operator of said snowmobile who is under the age of eighteen (18). (Ord. 1995-07, 7-27-1995)

6-2-4: UNLAWFUL OPERATIONS:

It is a violation of this chapter for any person to do any act forbidden or fail to perform any act required in this chapter, and it shall be unlawful for any person to drive or operate any snowmobile in any one or more of the following manners:

A. Speed Limit: At a rate of speed greater than provided by law for motor vehicles. A twenty five (25) mile per hour maximum speed limit for snowmobiles shall be enforced when en route to or returning from designated trails, forest access areas, and other snowmobile areas. (Ord. 1995-07, 7-27-1995)

B. Under Influence Of Liquor Or Drugs: While under the influence of intoxicating beverages, narcotic or other drugs to a degree that renders him incapable of reasonable operation. (Ord. 1995-07, 7-27-1995; amd. 2003 Code)

C. Careless, Reckless Manner: In a careless, negligent, or reckless manner so as to endanger the person or property of another, or to cause injury or damage to either, including a guest or passenger.

D. Equipment:

1. Lights:

a. Without a lighted headlamp and a red or amber taillight which shall be lighted at all times during such operation.

b. The snowmobile must be equipped with one or more headlights of sufficient candlepower to light objects at a distance of one hundred fifty feet (150') and at least one taillight of sufficient intensity to exhibit a red or amber light at a distance of two hundred feet (200') under normal atmospheric conditions.

2. Brake: Without a suitable braking device which may be operated by either hand or foot.

3. Muffler: Without a muffler in good working order and in constant operation which prevents excessive or unusual noise and annoying smoke.

E. Persons With Certain Disabilities: Operate or permit such operation by any person who by reason of physical or mental disability is incapable of operating the snowmobile as required for safety under the prevailing circumstances.

F. Possession Of Driver's License: Operate a snowmobile upon the streets of the village as authorized by this chapter without a license to drive a motor vehicle in his possession, as required by the laws of the state.

G. Pursuing Animals: In pursuit of any species of animal or bird protected by law.

H. Minors; Responsibility Of Parent Or Guardian: The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter. (Ord. 1995-07, 7-27-1995)

6-2-5: ACCIDENT REPORTS:

Any operator of a snowmobile involved in an accident resulting in injuries to or the death of any person or resulting in damage to public or private property to the extent of fifty dollars (\$50.00) or more, shall immediately notify a village law enforcement officer or the village police department of the accident and the facts in relation to the accident. (Ord. 1995-07, 7-27-1995; amd. 2003 Code)

6-2-6: ENFORCEMENT:

Law enforcement officers of the village, the county sheriff's department, department of game and fish, forest service, or the state police, displaying badges of office, have the authority to enforce the provisions of this chapter within the village and may require the operator of any snowmobile to produce the certificate of registration and personal identification of the operator and may issue citations for violations of the provisions of this chapter. (Ord. 1995-07, 7-27-1995; amd. 2003 Code)

6-2-7: VIOLATION; PENALTIES:

Violation of any section of this chapter shall be a petty misdemeanor and punishable by fine or imprisonment, or both, as follows:

A. For any violations occurring upon the public highways or roadways, the penalty shall be as provided by law for such violations applying to persons owning or operating motor vehicles according to the New Mexico uniform traffic ordinance, as adopted and amended by the village.

B. For any other violation, or for any violation not covered by subsection A of this section, the violator shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 1995-07, 7-27-1995; amd. 2003 Code)

GOLF CARTS

SECTION:

6-3-1: Definitions

6-3-2: Liability Insurance Required

6-3-3: General Operating Provisions

6-3-4: Unlawful Operations

6-3-5: Accident Reports

6-3-6: Enforcement

6-3-7: Violation; Penalties

6-3-1: DEFINITIONS:

As used in this chapter, the following terms shall have the meanings indicated herein, unless the context otherwise clearly implies that another meaning is intended:

GOLF CART: Any motorized vehicle designed for operation on golf courses, principally to carry golfers and golfing equipment, but does not include any farm implement or any military or law enforcement vehicle.

OPERATOR: Shall include every person who operates or is in actual physical control of the operation of a golf cart.

OWNER: Shall include every "person", as defined herein, other than a lienholder or other person having a security interest only, holding record of title to a golf cart and entitled to the use or possession thereof.

PERSON: Includes an individual, partnership, association, corporation, and any other body or group of persons, whether incorporated or not, and regardless of the degree of formal organization.

ROADWAY: Shall include only those portions of the village streets and alleys designed or designated or ordinarily used for travel or parking of motor vehicles. (Ord. 1996-02, 5-9-1996)

6-3-2: LIABILITY INSURANCE REQUIRED:

The owner of a golf cart that is operated upon a roadway for any duration or distance is required to have liability insurance as provided for in the mandatory financial responsibility act ¹

Notes

- ¹ 1. NMSA § 66-5-208.1 of the motor vehicle code. A certificate of insurance shall be carried in the golf cart at all times and shall be presented by the operator of the golf cart to any law enforcement officer requesting proof of such insurance in the course of his duties. The operator of a golf cart shall ensure that such insurance coverage exists before operating a golf cart upon any roadway. (Ord. 1996-02, 5-9-1996)

6-3-3: GENERAL OPERATING PROVISIONS:

A. **Driver's License Required:** Any person operating a golf cart upon a roadway must possess a valid driver's license issued by any state.

B. **Operation On Village Roadways Permitted; Hours:**

1. Operation of golf carts is hereby authorized upon the roadways of the village, subject to all the provisions of this chapter.

2. Golf carts will be permitted upon the roadways of the village only when the operator of the golf cart is traveling directly to or from his residence and the Angel Fire country club, and only during daylight hours. Daylight hours are defined as thirty (30) minutes before sunrise until thirty (30) minutes after sunset.

C. **Operation On State Highways:** All state highways are closed to all golf carts; except, that the operator of a golf cart may make a direct crossing of a state highway where such crossing is necessary to get to another authorized area of operation. Such crossings shall be made at an angle of approximately ninety degrees (90°) to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing. The golf cart shall come to a complete stop before entering upon any part of the highway. The operator shall yield the right of way to all oncoming traffic, and shall begin crossing only when it can be executed safely and in the most direct manner possible.

D. **Prohibited Locations:** At no time shall golf carts be operated upon sidewalks or in lawfully posted areas.

E. **Compliance With Traffic Laws:** The operator of a golf cart, when operating upon any roadway, shall do so in conformance with all vehicle traffic and safety laws of the state, the county, and the village.

F. **Emerging From Alley, Driveway Or Building; Approaching Sidewalk:** The operator of a golf cart emerging from an alley,

driveway, or building, or upon approaching a sidewalk or sidewalk area shall, before entering a roadway, yield the right of way to all vehicles and pedestrians approaching upon said roadway.

G. Slow Moving Vehicle Designation: Every golf cart operated upon a roadway shall be equipped with a "slow moving vehicle" emblem or with a flashing amber light. If a "slow moving vehicle" emblem is used, the emblem shall be attached to the rear of the golf cart in a plane providing maximum visibility of the sign to traffic approaching from the rear. If a flashing amber light is used, the light shall be affixed so that it is clearly visible without obstruction to traffic approaching from the rear. The emblem or light shall be affixed not less than eighteen inches (18") nor more than seventy two inches (72") from the ground. The emblem or light shall be visible from a distance of five hundred feet (500') or more. A "slow moving vehicle" emblem shall be not less than sixteen inches (16") horizontal and fourteen inches (14") vertical, and shall be mounted with the broad base down. The emblem shall have truncated corners, a red reflective border of not less than one and three-quarters inches (1³/₄") in width, and a fluorescent body of yellow or orange or a combination of the two (2) colors approaching red. (Ord. 1996-02, 5-9-1996)

6-3-4: UNLAWFUL OPERATIONS:

It is a violation of this chapter for any person to do any act forbidden or fail to perform any act required in this chapter, and it shall be unlawful for any person to drive or operate any golf cart in any one of more of the following manners: (Ord. 1996-02, 5-9-1996)

A. Under Influence Of Liquor Or Drugs: While under the influence of intoxicating liquor or narcotics or drugs that render him incapable of reasonable operation. (Ord. 1996-02, 5-9-1996; amd. 2003 Code)

B. Careless, Reckless Manner: In a careless, negligent, or reckless manner so as to endanger the person or property of another, or to cause injury or damage to either, including a guest or passenger.

C. Operation At Night: To operate a golf cart at night upon any roadway of the village.

D. Equipment:

1. Brake: Without a suitable braking device.

2. Muffler: Without a muffler in good working order and in constant operation which prevents excessive or unusual noise and annoying smoke.

E. Persons With Certain Disabilities: To operate a golf cart, or permit such operation, by any person who by reason of physical or mental disability is incapable of operating the golf cart as required for safety under the prevailing circumstances. (Ord. 1996-02, 5-9-1996)

6-3-5: ACCIDENT REPORTS:

Any operator of a golf cart involved in an accident on village roadways resulting in injuries to any person, the death of any person, or resulting in damage to public or private property to the extent of fifty dollars (\$50.00) or more, shall immediately notify a village law enforcement officer or the village police department of the accident and the facts in relation to the accident. (Ord. 1996-02, 5-9-1996; amd. 2003 Code)

6-3-6: ENFORCEMENT:

Law enforcement officers of the village, the county sheriff's department, the state police, or the department of game and fish, displaying badges of office, have the authority to enforce the provisions of this chapter within the village and may issue citations for any violations of the provisions of this chapter. (Ord. 1996-02, 5-9-1996; amd. 2003 Code)

6-3-7: VIOLATION; PENALTIES:

Violation of any section of this chapter shall be a petty misdemeanor and shall be punishable by fine or imprisonment, or both, as follows:

A. For any violations occurring upon the public highways or roadways, the penalty shall be as provided by law for such violations applying to persons owning or operating motor vehicles according to the New Mexico uniform traffic ordinance, as adopted and amended by the village ¹

B. For any other violation, or for any violation not covered by subsection A of this section, the violator shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 1996-02, 5-9-1996; amd. 2003 Code)

Notes

¹ 1. See sections 6-1-1 and 6-1-2 of this title.1. (Ord. 1996-02, 5-9-1996)

CHAPTER 4

ASSEMBLIES, DEMONSTRATIONS, AND PARADES

SECTION:

6-4-1: Purpose

6-4-2: Definitions

6-4-3: Permit Requirements

6-4-4: Acknowledgement Of Application

6-4-5: Multiple Applications For Same Date

6-4-6: Adjustment Or Postponement Of Activity

6-4-7: Compliance

6-4-8: Exceptions

6-4-1: PURPOSE:

The purpose of this chapter is to allow for public rights of way to be used for public assembly, celebrations and parades in a safe manner while assuring vehicular traffic circulation for emergency responders and the general public. (Ord. 2010-06, 4-20-2010)

6-4-2: DEFINITIONS:

APPLICANT: Any person who shall have filed a written application for a parade permit for the purpose of a public procession, a public gathering or for a public demonstration.

GRANTEE: The person to whom a parade permit is granted by this chapter.

PARADE PERMIT: Written approval from the chief of police for a procession or a public gathering or for a public demonstration.

PROCESSION: Any assembly of three (3) or more persons whose gathering is for the purpose of parading from one location to any other.

PUBLIC GROUNDS: All public grounds owned and under the control of the village that are open to the use of the public for any public purpose.

SIDEWALK: That portion of the street between the curb lines or the lateral lines of the roadway or street adjacent to the property lines which is intended for the use of pedestrians.

STREET: The entire right of way as well as the surface of and the space adjacent to any street, highway, road, freeway, bridge, lane, path, alley, court, sidewalk, parkway, drive or public way, now or hereinafter in existence within the village. (Ord. 2010-06, 4-20-2010)

6-4-3: PERMIT REQUIREMENTS:

No person, group of persons or organization of any kind shall use the public streets, sidewalks or public grounds of the village for a procession, pedestrian or vehicle, or a combination thereof, in conflict with any of the traffic ordinances, laws or regulations of the village, or impede, hinder, or obstruct normal pedestrian or vehicular traffic in any manner, except upon application in writing, containing the following information to the chief of police. The chief of police will not issue the permit less than seventy two (72) hours nor more than thirty (30) days before the date and time of the commencement of the procession and upon receipt of a permit issued by the chief of police as hereinafter provided:

A. The name, mailing address, physical address, e-mail address, and telephone number of the person, group of persons or organization planning the procession and responsible for its conduct.

B. The date, time, and place of the procession's commencement, the composition of the procession, the specific route to be traveled, and the procession's termination point and estimated termination time.

C. Written permission from the property owner where the procession will commence and terminate.

D. The approximate number of persons, animals and vehicles expected to participate in such a procession, together with a description of the type of animals and vehicles and pedestrians involved. (Ord. 2010-06, 4-20-2010)

6-4-4: ACKNOWLEDGEMENT OF APPLICATION:

Upon receipt of an application for a parade permit, as described above, the chief of police or his or her designated agent shall furnish to the person, group of persons or organization making the application a written acknowledgement of receipt of the application and appropriate approval or disapproval of the same with any conditions to ensure public health, safety and welfare. (Ord. 2010-06, 4-20-2010)

6-4-5: MULTIPLE APPLICATIONS FOR SAME DATE:

In the event the chief of police receives application for more than one procession to be held on the same date, the chief of police may route each of the processions so that they will not conflict with each other or impede traffic circulation; or may cancel the later application and require a new application with a different date to be filed with the chief of police. (Ord. 2010-06, 4-20-2010)

6-4-6: ADJUSTMENT OR POSTPONEMENT OF ACTIVITY:

In the event the application for a parade permit under this chapter shows that the procession will unreasonably interfere with the rights of others to the use of the streets, sidewalks or public grounds, with respect to the time, route or composition of

the procession, the chief of police shall direct that the plan for the procession shall be appropriately adjusted or canceled until a later date. Such directive as to a change in plan shall be delivered to the person or group notifying the chief of police at least twenty four (24) hours prior to the proposed beginning of the procession. (Ord. 2010-06, 4-20-2010)

6-4-7: COMPLIANCE:

It shall be unlawful for any person to participate in any manner in a procession on the public street as described herein prior to the compliance with the provisions of this chapter. (Ord. 2010-06, 4-20-2010)

6-4-8: EXCEPTIONS:

The provisions of this chapter shall not apply to:

- A. Funeral processions proceeding by vehicle under the most reasonable route from a funeral home, church or residence of a deceased to the place of interment.
- B. A government agency acting within the scope of its functions.
- C. Peaceful picketing directed against an employer whose activities come with the jurisdiction of the national labor relations act and involved in a labor dispute. (Ord. 2010-06, 4-20-2010)

CHAPTER 5

FILM PERMITS

SECTION:

6-5-1: Purpose

6-5-2: Permit Requirement

6-5-3: Application For Film Permit

6-5-4: Submittal And Review Of Application

6-5-5: Issuance Of Film Permit

6-5-6: Denial Of Film Permit

6-5-7: Fees

6-5-8: Alterations To Village Property

6-5-9: Extension Of Time

6-5-10: Exceptions

6-5-11: Penalties And Recovery For Damages

6-5-1: PURPOSE:

The state of New Mexico promotes and supports the video film industry and encourages said industry to produce movies throughout the state. A film production can be an economic generator that often requires the use of public rights of way. This chapter provides for a permit process that will protect improvements on those rights of way and will ensure that it provides for vehicular traffic circulation for emergency responders and the general public. (Ord. 2010-07, 4-20-2010)

6-5-2: PERMIT REQUIREMENT:

A film permit shall be required prior to any person, organization, corporation, group or other entity engaging in the activity of filming or photographing an advertising commercial, movie, documentary, television program, catalog or magazine layout or similar presentation for commercial purposes at any location or locations within the village, whether on public or private property, except as otherwise specifically provided in this chapter. For purposes of determining the requirements for a film permit, filming or photography for commercial purposes shall include all filming, videotaping or photography by any person or organization that plans or intends to sell, rent, screen, display, or otherwise make use of such filming, videotaping or photography for a profit, whether or not a profit is actually realized from the filming or photographic activities. (Ord. 2010-07, 4-20-2010)

6-5-3: APPLICATION FOR FILM PERMIT:

An applicant for a film permit may obtain an application form from the office of the planning division. The applicant must complete all information requested on the application form, which at a minimum shall include the following:

- A. The name, mailing address, e-mail address, and telephone number of the applicant.
- B. The proposed location or locations of the filming or photography.
- C. The dates and times that filming or photography will take place at each location.
- D. The total number of persons in the cast and crew.
- E. The total number of vehicles involved in the filming or photography, and the specific location or locations where the

vehicles will be stationed or parked during the filming or photography.

F. The name and local or mobile telephone number of the person in charge on site.

G. If the filming or photography will require the closure or blockage of any right of way, a statement identifying the dates and times of such anticipated closure or blockage, the maximum time in minutes of any such closure or blockage.

H. An indemnification agreement which shall be in a form approved by the village attorney, stating that the applicant agrees to assume all liability for and will indemnify and hold harmless the village from any and all damages or injuries to persons or property that may occur by reason of the proposed filming or photography.

I. Any other information requested by the planning director. (Ord. 2010-07, 4-20-2010)

6-5-4: SUBMITTAL AND REVIEW OF APPLICATION:

A. Submittal Of Application: No later than ten (10) business days before the first day of any proposed filming or photography requiring a film permit, the applicant shall submit to the planning division the following:

1. A completed and signed application form, including the signed indemnification agreement in the required form, with no additions, deletions, or interlineations.

2. A nonrefundable application fee in an amount that may be determined by resolution of the village council, but which shall not in any case be less than one hundred dollars (\$100.00).

3. A certification of insurance evidencing a general liability insurance policy effective during the entire period of the proposed filming or photography, showing the village as an additional named insured, and providing coverage limits of no less than one million dollars (\$1,000,000.00) per occurrence or two million dollars (\$2,000,000.00) aggregate.

4. A current list from the office of the Colfax County assessor showing the names and mailing addresses of all owners of real property within two hundred feet (200') of each proposed location where filming or photography will take place, with evidence satisfactory to the village that each such property owner has been individually notified by the applicant regarding the proposed filming or photography, including the specific dates and times when such filming or photography is expected to occur.

5. If the filming or photography will require the closure or blockage of any public right of way, a statement: a) signed by the owner of each property located adjacent to such closure within a distance of two hundred feet (200') from the location of such closure or blockage, and b) if the right of way terminates in a cul-de-sac or dead end beyond the point of closure or blockage, signed by each business owner or adult occupant of any residence between the point of closure or blockage and the cul-de-sac or dead end, in each case reflecting that the signatory has been made aware of the proposed dates and times of such closure or blockage and has no objection to them, or in the alternative stating the signatory's objection and reasons for such objection. No public right of way may be blocked for more than five (5) minutes at any time unless an approved detour is in place. Any blockage must be immediately vacated if access is needed by emergency vehicles.

B. Review Of Application: The planning director shall forward the film permit application and supporting materials to the chief of police, the fire chief, the village administrator, the village building inspector and the village attorney for review and approval or disapproval. Members of the village council will also be notified of the application. This review will determine whether the proposed filming or photography will constitute a threat to public health, safety or welfare by reason of time, location or duration of the activity or will unduly interfere with vehicular, pedestrian, or other nonmotorized traffic. Approval of an application may be conditioned upon the payment of a traffic control fee or fire department standby fee as provided in section 6-5-7 of this chapter, and may also be conditioned upon such limitations as to time, place and duration as are deemed by the village to be reasonably necessary for the protection of the public health, safety, and welfare. (Ord. 2010-07, 4-20-2010)

6-5-5: ISSUANCE OF FILM PERMIT:

Upon approval by the chief of police and payment by the applicant of all required fees, the planning director shall endorse the application reflecting its approval, shall return the original application with such endorsement to the applicant, and shall provide copies thereof to the chief of police and the fire chief. The endorsed application with all attachments and conditions thereto shall constitute a film permit for the proposed filming or photography in accordance with the terms stated in the application, including such attachments and conditions. (Ord. 2010-07, 4-20-2010)

6-5-6: DENIAL OF FILM PERMIT:

An application that proposes any filming or photography that would be in violation of any section of this code, resolution, rule or regulation of the village shall be denied. An application that has been disapproved by the chief of police pursuant to section 6-5-4 of this chapter shall be denied. The planning director shall promptly notify the applicant in writing when an application for a film permit is denied. (Ord. 2010-07, 4-20-2010)

6-5-7: FEES:

Prior to and as a condition for the approval of a film permit, the applicant shall pay to the village the following mandatory fees, which may be modified from time to time by resolution of the governing body, which shall in no case be less than the amounts here shown:

A. Film fee. No less than two hundred fifty dollars (\$250.00) per day for each day of filming or photography on village public rights of way or village property. The fee may be waived at the mayor's discretion for public service announcement filming.

B. Traffic control fee, if traffic control is required by the chief of police or requested by the applicant. The traffic control fee shall be sufficient to cover chief's overtime and costs for all periods during which traffic control services will be required.

C. Fire department standby fee, if fire or rescue standby is required by the fire chief or requested by the applicant. The fire department standby fee shall be sufficient to cover chief's overtime and costs of all periods during which fire department standby will be required. Fees will be charged for standby fire equipment as determined by the fire chief under rates published by the state forestry division of the New Mexico energy, minerals and natural resources department.

D. Cleanup deposit. If any portion of the filming or photography will take place upon a right of way or any other public property owned by the village, a deposit shall be made with the public works department in an amount no less than two hundred fifty dollars (\$250.00) for each day of filming or photography on such right of way or other public property. Upon the completion of all filming or photography in the village, the public works department shall return such deposit to the applicant, less the costs incurred by the village for any cleanup, restoration, or repair of public property or facilities that is made necessary by the filming or photography. (Ord. 2010-07, 4-20-2010)

6-5-8: ALTERATIONS TO VILLAGE PROPERTY:

No alteration of any nature, whether temporary or permanent, shall be made to village property in connection with any filming or photography, including, without limitation, cutting or trimming of trees or vegetation, digging of holes, or modification of structures, unless such alteration is specifically approved in advance, in writing, by the village administrator and the village is compensated for any damages or costs incurred as a consequence of such alteration. (Ord. 2010-07, 4-20-2010)

6-5-9: EXTENSION OF TIME:

An applicant who has been granted a film permit for filming or photography in accordance with section 6-5-5 of this chapter may make application to the planning director for an extension of time to provide for additional days of filming or photography at the same location or locations stated in the original permit. Such application for an extension of time must be submitted no less than three (3) business days before the first proposed extension date. The extension of time shall be granted following review by the chief of police, the fire chief, and the village administrator, unless denied upon a determination by any of them that the proposed extension of time for filming or photography will constitute a threat to public health, safety or welfare or will unduly interfere with vehicular or pedestrian traffic. The applicant shall pay all additional fees for the additional day or days of filming or photography as provided in section 6-5-7 of this chapter or by resolution or by the village council. Upon approval and payment of the required fees, the planning director shall amend the permit to reflect the approved extension of time. (Ord. 2010-07, 4-20-2010)

6-5-10: EXCEPTIONS:

If there is a request to film or photograph within the village for a very short period of time, being less than three (3) days, then the village administrator may waive subsections 6-5-4A4 and A5 of this chapter (notification requirements) provided:

A. Every effort is made to contact affected property owners and residents and that this effort is documented.

B. The police chief, the fire chief, and the public works director can provide all necessary logistics on site. (Ord. 2010-07, 4-20-2010)

6-5-11: PENALTIES AND RECOVERY FOR DAMAGES:

A violation of any provision of this chapter shall be punishable in accordance with section 1-4-1 of this code. In addition to any penalties under section 1-4-1 of this code, the village may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or to enjoin the violation of any provision of this code, and may also bring an action in a court of competent jurisdiction to recover the village's costs, incurred as a result of damages to village property or violations of this code, resolutions, rules, or regulations in connection with any filming or photography, permitted or unpermitted. (Ord. 2010-07, 4-20-2010)

TITLE 7

PUBLIC WAYS AND PROPERTY

CHAPTER 1

STREET AND DRAINAGE DESIGN STANDARDS

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7-1-1: TITLE:

This chapter is entitled and may be cited as the *VILLAGE OF ANGEL FIRE STREET AND DRAINAGE DESIGN STANDARDS ORDINANCE*. (Ord. 2007-06, 8-14-2007)

7-1-2: VILLAGE POLICY:

These design guidelines are established for use in the design of street systems, drainage structures and related features. These criteria are intended to assure acceptable levels of comfort, safety, quality and durability in complete designs.

Designers and others using these criteria are expected to familiarize themselves fully with the following regulations, other pertinent regulations and the standard reference publications cited herein.

The purpose of these design guidelines is to set forth criteria and standards to design streets and drainage systems within the jurisdiction of the village. The intent is to provide the designer with standards and guidelines that will ensure the design and construction of streets, drainage systems and associated elements that will incorporate high engineering qualities and provide the public a safe and durable street and/or drainage system requiring minimal maintenance and repair.

All plans shall be prepared by or under the direct supervision of a professional engineer licensed in the state of New Mexico. The engineer preparing or supervising the preparation of the plan shall verify that the proposed street will meet the standards and criteria of the integration with other project features such as drainage, floodplains, grading, parking and landscaping.

Material specifications, construction standards and procedures, and testing and inspection requirements are to comply with the New Mexico department of transportation "Specifications For Road And Bridge Construction", latest edition, except as noted herein. However, the standard details as included within these village road and drainage standards shall apply to the geometric configuration.

The village reserves the right, in the village's best interest, to issue and enforce more stringent criteria should adverse conditions exist. The professional design engineer preparing the plans must certify that any variance from these standards will result in construction with performance criteria comparable to the standards set forth in this chapter. Responsibility for correctness of design lies with the professional design engineer who shall verify that the information is correct and accurate and that the proposed design conforms with all applicable standards and regulations of the village.

Variance or deviations from or amendments to any of these village streets standards require written approval by the village public works director. The village public works director, or his designee, shall from time to time prepare and adopt technical standards for infrastructure improvements which amend these village streets and drainage standards. Such technical standards shall contain the minimum acceptable design criteria and specifications for the construction of such improvements.

Recommendations for changes to these standards may be prepared by the village public works director, or his designee. Proposals for changes to these standards shall be forwarded to the village public works director for his recommendation. The village public works director shall then forward his recommendations either for or against the proposed change to the village council for their approval or disapproval.

Appeals to these standards or variances are through the village council as per the subdivision regulations to which these standards are hereto attached and incorporated as they may from time to time be amended. (Ord. 2007-06, 8-14-2007)

7-1-3: DEFINITIONS AND ABBREVIATIONS:

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

AASHTO: American Association of State Highway and Transportation Officials.

ACCELERATION LANE: A speed change lane, including tapered areas, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can more safely merge with traffic.

ACCESS: Driveway or other point of access such as a street, road or highway that connects to the general street system. Where two (2) public roadways intersect, the secondary roadway will be the access.

APPROACH: The portion of an intersection leg which is used by traffic approaching the intersection.

AVERAGE DAILY TRAFFIC (ADT): The total two-directional volume of traffic passing through a given point during a given time period, divided by the number of days in that time period.

BMP: Best management practice. Best management practices are schedules of activities, prohibitions or practices, maintenance procedures and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage. With regard to construction these practices may include structural devices or nonstructural practices that are designed to prevent pollutants from entering water or to direct the flow of water.

CAPACITY: The maximum number of vehicles that have a reasonable expectation of passing over a given roadway or section of roadway in one direction during a given time period under prevailing roadway and traffic conditions.

CHANNEL: Any arroyo, stream, swale, ditch, diversion or watercourse that conveys storm runoff, including manmade facilities.

CHANNEL STABILITY: A condition in which a channel neither degrades to the degree that structures, utilities or private property are endangered, nor aggrades to the degree that flow capacity is significantly diminished as a result of one or more storm runoff events or moves laterally to the degree that adjacent property is endangered.

CHANNEL TREATMENT MEASURE: A physical alteration of a channel for any purpose.

COMPREHENSIVE PLAN: The village of Angel Fire comprehensive plan and amendments thereto.

CONCEPTUAL GRADING AND DRAINAGE PLAN: A plan prepared in graphical format showing existing and proposed

grading, drainage control, flood control and erosion control information in sufficient detail to determine project feasibility.

CONSTRUCTION: The construction, reconstruction or alteration of any opening, excavation, tunnel, sidewalk, curb, gutter, street or other work of any kind within the public way which results in the physical alteration thereof.

CONSULTANT: A person, partnership or corporation duly licensed as a professional engineer, according to the New Mexico statutes, who is hired by the landowner or developer and is empowered to act as their agent.

CONTRACTOR: A person, partnership or corporation, appropriately licensed within the state of New Mexico, who will actually perform "construction", as defined in this section, and who is required to apply for and obtain a uniform excavation and encroachment permit from the village.

CRITICAL VOLUME: A traffic volume (or combination of volumes) for a given street which produces the greatest utilization of capacity for that street in terms of passenger cars or mixed vehicles per hour.

CURB: The vertical or steeply sloping member which forms the standup part of the curb and gutter combination and which may be constructed without a gutter section as header curb.

CURB CUT: Any break in a curb which facilitates access to or from a street or alley.

DHV: Design hourly volume, as determined by the design consultant, in accordance with appropriate design manuals, such as the AASHTO "Policy On Geometric Design Of Highways And Streets", latest edition.

DAYS: Calendar days, not normal working days, unless stipulated as working days.

DECELERATION LANE: A speed change lane, including tapered areas, for the purpose of enabling a vehicle that is to make an exit turn from a roadway to slow to a safe turning speed after it has left the main stream of faster moving traffic.

DESIGN HOUR VOLUME: Hourly traffic volume used for street design and capacity analysis, usually one or more peak hours during a twenty four (24) hour period.

DESIGN SPEED: Five (5) miles per hour above the proposed or desired speed limit of the facility under design.

DESIGN STORM: A storm which deposits a stated amount of precipitation within a stated period over a defined area and which is used in calculating storm runoff and in designing drainage control, flood control and erosion control measures.

DESIGN VEHICLE: A. Developments intended for public use must be designed for the following types of vehicles:

Residential (excluding single-family or duplex)	SU30
Commercial uses	WB40
Industrial uses	WB50
For public streets, the following design vehicles must be used:	
Commercial/multi-family locals and minor collectors	SU30
Major collectors	WB40
Arterials	WB50

B. SU designation is for single vehicles; WB designation is for wheel base length on multi-axle vehicles.

C. Definitions for the above vehicle types are found in AASHTO "A Policy On Geometric Design Of Highway And Streets" (latest revision).

DEVELOPED LAND: Any lot or parcel of land occupied by any structure intended for human occupation, including structures intended for commercial enterprise.

DEVELOPER: Any individual, estate, trust, receiver, cooperative, association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity engaging in the platting, subdivision, filling, grading, excavating or construction of structures or facilities.

DIVIDED HIGHWAY: A highway with separated roadways for traffic in opposite directions, such separation being indicated by depressed dividing strips, raised curbing, traffic islands, other physical separations or by standard pavement markings and other traffic control devices.

DOWNSTREAM CAPACITY: The ability of downstream major facilities to accept and safely convey runoff generated upstream from the 100-year design storm.

DRAINAGE: Storm drainage.

DRAINAGE COVENANT: A legal document executed between a real property owner and the village and, in general, identifies, addresses and defines a drainage facility or facilities, maintenance, village's right of entry, demand for removal or repair, failure to perform by owner and emergency work by village, liability of village, indemnification, cancellation of agreement and release of covenant, assessments, notification, term, binding of property, changes and severability. The drainage covenant shall be in a form provided by the village.

DRAINAGE DITCH (BORROW DITCH): Ditch parallel to driving surface to convey rainwater runoff from the right of way. Where no curb or sidewalk exists, driveway construction shall not block the drainage ditch without providing property drainage structures.

DRAINAGE MANAGEMENT OR TREATMENT: The treatment and/or management of surface runoff from all storms up to and including a 10-year design storm.

DRAINAGE MANAGEMENT PLAN: A plan prepared and adopted by the village which details the drainage controls required within a particular watershed, arroyo corridor or other designated drainage district. The drainage management plan shall comply with an arroyo corridor plan if one has been adopted.

DRAINAGE PLAN: A short, detailed plan prepared in graphical format with or on a detailed grading plan addressing on site and off site drainage control, flood control and erosion control issues for lots or parcels of less than five (5) acres.

DRAINAGE REPORT: A comprehensive analysis of the drainage, flood control and erosion control constraints on and impact resulting from a proposed platting, development or construction project.

DRAINAGE RIGHT OF WAY: A public right of way acquired whether in fee or in easement, by the village or the state for the primary purpose of handling storm drainage.

DRAWINGS: Detailed or working drawings including plan and profile and detail sheets.

DRIVE PAD: A concrete paved vehicular way on a road section which is within the public right of way and which provides vehicular access from a public right of way to property abutting the right of way. The width of the drive pad is measured as the horizontal distance along the gutter flow line. The curb transitions on either side of this dimension are not included in the drive pad width.

DRIVEWAY: A constructed access servicing three (3) or less units and abutting to a street or private driveway.

DRIVEWAY ACCESS: A vehicular way on a rural road section which is within the public right of way and which provides vehicular access from a public right of way to property abutting the right of way.

EPA: United States environmental protection agency.

EASEMENT: An acquired or granted right from a property owner for a specific use by the general public, a corporation, or certain person(s).

ENCROACHMENT PERMIT: A permit issued to a private party, corporation, or utility company for the purpose of excavating a trench or pit for boring under or within a village right of way for the installation of utility lines, conduits, or drainage structures.

ENGINEER: The village engineer, village of Angel Fire, New Mexico, or his authorized representatives acting on behalf of the village.

EROSION CONTROL PLAN: A plan for the mitigation of damages due to soil erosion and to deposition.

FHWA: Federal highway administration.

FACILITIES: A conduit, channel, culvert, ditch, drain, inlet, pipe, pond, storm drain, or any other item constructed for the purposes of capturing, controlling, detaining or retaining storm water flow or for other purposes required to comply with these standards or to protect the safety and health of the general public.

50-YEAR DESIGN STORM: That storm whose precipitation within a six (6) hour period and resulting runoff has a two percent (2%) chance of being equaled or exceeded in any given year. A special condition may require/allow use of storms of longer duration.

FIRETRUCK: A fire apparatus truck particular to the village of Angel Fire with a minimum fifty five foot (55') inside and seventy foot (70') outside turning radius used for design purposes.

FLOOD CONTROL: The treatment measures necessary to protect life and property from the 100-year design storm runoff.

FLOOD HAZARD AREA: An area subject to inundation from the 100-year design storm runoff.

FLOODWAY: The channel of a river, arroyo or other watercourse and adjacent land areas that must be reserved in order to safely discharge the 100-year design storm runoff.

FLOW LINE: The transition point between the gutter and the face of the curb. Where no curb exists, the flow line will be considered the edge of the outside traveled lane.

FREEBOARD: That part of the drainage channel that is designed to contain the wave action of the 100-year design storm.

FULLY DEVELOPED WATERSHED: A hydrologic condition in which all areas upstream and downstream of a point in question are assumed completely developed, including any undeveloped areas which are assumed to be developed in accordance with midrange development densities as established by the comprehensive plan, appropriate area plans or sector plans, adopted facilities master plans and the hydraulic and hydrologic standards established by this chapter.

GRADE: Rate or percent of change in slope, either ascending or descending from or along the highway. It is measured along the centerline of the highway or access.

GRADING PLAN: A plan describing the existing topography and proposed grading, including retaining wall locations and details, interfaces with adjacent properties, streets, alleys and channels, referenced to mean sea level (1929 or 1988 datum) such as village bench mark or NMDOT bench mark, and showing sufficient contours, spot elevations and cross sections to allow a clear understanding by reviewers, contractors and inspectors.

GUTTER: A horizontal or slightly sloping member which may form the base of the curb and gutter combination and which may be constructed as an integral part of the curb-gutter combination or may be constructed as a separate member without curb section.

INSPECTOR: An authorized representative of the village engineer assigned to make detailed inspections for contract performances, standards and contract compliance.

MUTCD: "Manual On Uniform Traffic Control Devices", latest revision, as published by the United States department of transportation, federal highway administration.

MAINTENANCE: The cleaning, shaping, grading, repair and minor replacement of drainage, flood control and erosion control facilities, but not including the cost of power consumed in the normal operation of pump stations.

MAJOR FACILITY: Any facility, including a street or alley, which would collect, divert or convey a peak discharge of more than fifty cubic feet per second (50 cfs) or store two (2) acre-feet or more of runoff in the event of a 100-year design storm.

MASTER PLANNED FACILITY: Any voter approved drainage control, flood control or erosion control facility by general obligation bond financed drainage control, flood control or erosion control facility.

MAY: A permissive condition. No requirement for design or application is intended.

MINOR FACILITY: Any facility which would collect, divert or convey a peak discharge of fifty cubic feet per second (50 cfs) or less, or store less than two (2) acre-feet of runoff in the event of the 100-year design storm.

MULTIPLE USE FACILITY: A drainage control, flood control or erosion control facility in which other secondary uses are planned or allowed including, but not limited to, recreation, open space, transportation and utility location.

NMDOT: New Mexico department of transportation.

NOI: Notice of intent. (Refer to the U.S. environmental protection agency.)

NOT: Notice of termination. (Refer to the U.S. environmental protection agency.)

NPDES: National pollution discharge elimination system.

NUISANCE WATERS: Those waters leaving a site and entering a public street, which do not result from precipitation, such as landscape overwatering or car washing.

100-YEAR DESIGN STORM: That storm whose precipitation within a six (6) hour period and resulting runoff has a one percent (1%) chance of being equaled or exceeded in any given year. A special condition may require/allow use of storms of longer duration.

PEDESTRIAN: Any person afoot or in a wheelchair or other similar device.

PERSON: An individual, partnership, joint venture, association, corporation, social club, fraternal organization, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit.

PRIMITIVE ROAD: A single or two (2) lane road providing direct access to undeveloped areas, ranches, recreational and scenic areas.

PRIVATE ROADWAY: A roadway serving one or more dwelling units/commercial lot which is not constructed, owned or maintained by the village but is constructed per this chapter.

PROJECT DESIGN SWALE (DRAINAGE DITCH, BORROW DITCH OR BAR DITCH): A swale or ditch parallel to the driving surface to convey storm water runoff from the street right of way.

PRUDENT LINE (EROSION LIMIT LINE): That line which will not be disturbed by erosion, scour or meandering of a natural (unlined) arroyo, channel or watercourse over a period of thirty (30) years and which will not be disturbed by a 100-year storm occurring at any time during the thirty (30) year period. The prudent line shall be so located as to include all freeboard required to contain the wave action of the 100-year design storm.

PUBLIC RIGHT OF WAY: The total area of land deeded, reserved by plat, defined by statute, declared by court order, or otherwise acquired by the village of Angel Fire primarily for the use of the public for purposes of vehicular and/or pedestrian traffic.

PUBLIC WAYS: Includes all alleys, easements, rights of way, sidewalks, walkways, footpaths, streets, roads, highways, village lots and drainageways.

PUBLIC WORKS DEPARTMENT: The public works department of the village of Angel Fire.

RIGHTS OF WAY: That portion of public land, or private land dedicated to the public for surface or subsurface drainage, overhead or underground utility ways, nonvehicular access or other public uses.

ROAD: A general term denoting a public way for purposes of vehicular travel, including the entire area within the right of way (includes alleyways). Also referred to as street.

RURAL ROAD SECTION: A road section without curb and gutter.

SETBACK AREA: The part of the public right of way which is not occupied or planned to be occupied by street, curb, gutter, or sidewalk.

SHALL: A mandatory condition. Where certain requirements in the design or application are described with the "shall" stipulation, it is mandatory that these requirements be met.

SIGHT DISTANCE: The length of roadway ahead visible to the driver. The minimum sight distance available should be sufficiently long to enable a vehicle traveling at or near the design speed to stop before reaching a stationary object in its path.

SNOW STORAGE: Additional area within or out of the rights of way which is used for stacking of snow from roadways. Snow storage widths shall be measured from the outside edge of roadway shoulders or behind curbs. Widths will vary with topography and street classifications.

SPEED LANE CHANGE: A separate lane for the purpose of enabling a vehicle entering or leaving a roadway to increase (acceleration lane) or decrease (deceleration lane) its speed to a rate at which it can more safely merge or diverge with through traffic.

STOPPING SIGHT DISTANCE: The distance traveled by the vehicle from the instant the driver of a vehicle sights an object necessitating a stop, to the instant brake application begins.

STORAGE LANE: Additional lane footage added to a deceleration lane to store the maximum number of vehicles likely to accumulate during a critical period without interfering with the through lanes.

STORM DRAINAGE SYSTEM: Arroyos, storm drains, roadways, culverts, bar ditches, ponds, pump stations, dams, detention ponds, retention ponds, inlets and appurtenant structures and other facilities which convey storm water.

STORM WATER: Storm water runoff, which is flow on the surface or in the subsurface that percolates from the ground resulting from precipitation.

STORM WATER POLLUTION PREVENTION PLAN: The information and program required by EPA, NMED and/or the village for construction phase storm water management.

STORM WATER QUALITY CONTROL: The treatment methods necessary to protect and enhance the quality of storm water.

STREET: A general term denoting a public way for purposes of vehicular travel, including the entire area within the right of way (includes alleyways). Also referred to as road.

STREETS, ROADS AND HIGHWAYS: The entire width of every public right of way owned by or dedicated to the village and shall include the traveled roadway as well as the property between roadway and adjacent property line.

SUBSTANTIAL COMPLETION: The time when the work has progressed to the point where it is sufficiently complete so that it or a specified part can be utilized for the purpose for which it is intended.

TEMPORARY DRAINAGE FACILITY: A nonpermanent drainage control, flood control or erosion control facility constructed as part of a phased project or to serve until such time that a permanent facility is in place including, but not limited to, desilting ponds, berms, diversions, channels, detention ponds, retention ponds, bank protection and channel stabilization measures.

10-YEAR DESIGN STORM: That storm whose precipitation within a six (6) hour period and resulting runoff has a ten percent (10%) chance of being equaled or exceeded in any given year. A special condition may require/allow use of storms of longer duration.

25-YEAR DESIGN STORM: That storm whose precipitation within a six (6) hour period and resulting runoff has a four percent (4%) chance of being equaled or exceeded in any given year. A special condition may require/allow use of storms of longer duration.

VPD: Vehicles per day.

VILLAGE: The village of Angel Fire, New Mexico, a New Mexico municipal corporation.

VILLAGE ADMINISTRATOR: The village administrator of village of Angel Fire or his designated representative.

VILLAGE COUNCIL: The elected officials consisting of a mayor and council members for the village of Angel Fire.

VILLAGE PLANNING AND ZONING DIRECTOR: The official designated to enforce title 9 of this code (zoning), as may be amended from time to time.

VILLAGE PUBLIC WORKS DIRECTOR: A person employed by the public works department of the village of Angel Fire and so designated by resolution of the village council.

WATERCOURSE: Any river, creek, arroyo, canyon, draw or wash, or any other channel having definite banks and bed with

visible evidence of the occasional flow of water. (Ord. 2007-06, 8-14-2007)

7-1-4: REGULATED CRITERIA:

7-1-4-1: STREET LOCATION AND ARRANGEMENT:

A. Conformation: Streets must conform in character, location and arrangement to adopted plans. Village plans may be the village street plan(s), approved neighborhood plans, site development plans, sector plans, approved master plans or adopted future street lines. The village public works director should be consulted for information regarding applicable plans for areas under design consideration. Bikeway and pedestrian paths shall be observed, and implemented, in the design of streets, where feasible.

B. Arrangements: Proposed street arrangements must provide for the continuation of existing principal streets or appropriate projections.

C. Solar Access: Streets must be arranged to facilitate solar access where feasible. To accomplish this, such streets are to be oriented either in an east-west direction or within twenty degrees (20°) of east-west to the maximum extent feasible. These criteria may be waived if:

1. Other means of providing solar access to lots along such streets are provided.
2. Topographic conditions prevent reasonable achievement of such orientation.
3. Shape and size of property considered make such orientation unreasonable.
4. Adopted stormwater management plans or policies dictate a different street orientation.
5. Existing or approved development contiguous to the property precludes adequate solar access by this orientation criterion.
6. A contiguous street pattern makes this orientation unreasonable.
7. Such orientation would result in adverse environmental impacts.
8. Circulation requirements between streets require north-south linkages of limited length. (Maximum block lengths generally shall not exceed 600 feet.) (Ord. 2007-06, 8-14-2007)

D. Intersections: Street intersections shall be laid out to intersect each other as nearly as possible at right angles, and under no conditions shall the intersection angle be less than seventy five degrees (75°). Opposing streets shall either form a four-way intersection or shall be offset by no less than one hundred twenty five feet (125') between centerlines. (Ord. 2013-07, 8-13-2013)

E. Street Alignments: Street alignments must ensure that sanitary sewers installed within the right of way will never be closer than one hundred feet (100') to existing or proposed water wells or underground reservoirs. The village public works director should be consulted regarding the location of such facilities within the area under design.

F. Alleys: Alleys are not to be provided where other provisions can be made for adequate and suitable service access. Alleys may be utilized without a variance if properly designed. (Ord. 2007-06, 8-14-2007; amd. Ord. 2013-07, 8-13-2013)

7-1-4-2: STREET CLASSIFICATION:

Village streets are classified according to function. Functional classifications shall be established by the public works department which has the authority to determine which classification applies to any given street. Criteria used to design streets are based on their functional classification. For planning purposes, the village of Angel Fire uses the following functional categories in classifying its streets:

- A. Arterial: Any right of way designated as a numbered state or federal route. (Ord. 2007-06, 8-14-2007)
- B. Minor Arterial: (Rep. by Ord. 2013-07, 8-13-2013)
- C. Collector: Collectors provide a link between local streets and arterials, and allow for the movement of through traffic in neighborhoods. Collectors should be designed so they do not disrupt the activities and land uses they serve. In addition, access to collectors should be designed so it minimizes interruption of traffic flows.
- D. Local: Local access streets provide direct access to and connections between individual residences, businesses, community facilities and other land uses within neighborhoods. They also link individual properties to the collectors and arterial street network. This type of street is for use by property owners, the general public and service vehicles such as trash trucks, delivery trucks and snowplows. Streets serving neighborhoods that have been or are proposed to be subdivided into lots of less than ten (10) acres in size must meet, at a minimum, local access standards. Where a subdivision includes lots of differing sizes such that some are less than ten (10) acres and some are more than ten (10) acres, streets serving such subdivisions shall meet the more stringent standard. Streets serving neighborhoods where lot sizes are at least ten (10) acres and projected traffic volumes for these streets exceed five hundred (500) trips per day shall also meet local access standards.
- E. Low Volume: Low volume streets provide direct access to individual properties that have been or are proposed to be subdivided into individual parcels of twenty (20) acres or larger and the ADT does not exceed five hundred (500). Low volume streets provide connections from these areas to streets with higher functional classifications. When an area is proposed to be subdivided into lots of twenty (20) acres and larger, the public works director shall consider potential future

uses of the property and of adjacent properties in projecting traffic volumes, and may require a higher standard for street design if necessary to accommodate future traffic volumes and to implement a coordinated, functional street system.

F. Primitive Roads: A primitive road is a single or two (2) lane road providing direct access to undeveloped areas, ranches, recreational and scenic areas. This type of road shall not be used to provide access to subdivided property. (Ord. 2007-06, 8-14-2007)

7-1-4-3: ACCESS:

A. Purpose And Intent: Encroachment permits must be obtained whenever a developer, contractor, property owner, or other individual proposes to connect a driveway to an existing public or private roadway or recreational pathway in the village of Angel Fire. The reason for requiring access permits is to ensure the design of the connection meets the specifications in these guidelines and allows for proper drainage. Access permits are also intended to assure adequate reconstruction and/or repair of any damage caused to the village street right of way, or recreational pathway easement roadway or recreational pathway during construction of the connection. Access permits shall be obtained before building permits may be issued.

Warrants and design criteria for access shall be required, pursuant to the "State Access Management Manual" and the AASHTO "Green Book", latest editions.

B. Licenses And Bonds: Any individual proposing to construct a driveway connection to an existing village roadway or recreational pathway shall obtain an encroachment permit as provided in this section. Before undertaking any excavation within a village street right of way, or recreational pathway easement, an individual must hold a valid contractor's license, for the state of New Mexico, or must post a surety bond and must obtain an approved right of way, or recreational pathway easement permit as provided under this code. Bonds shall be posted with, and permits obtained from, the village planning department.

C. Subdivision Access: There shall be no less than two (2) street rights of way accessing any subdivision to minimize traffic congestion and/or blockage in times of emergency.

For access to a subdivision, a paved access to the subdivision from village, county or state roads shall be provided by the developer through public streets that conform to these guidelines.

D. Procedures/Requirements For Issuance Of Encroachment Permits: The following procedures, in addition to those provided under applicable sections of this code must be followed and requirements met in the review of applications for encroachment permits:

1. Submittal Requirements For Encroachment Permits: The following information must be submitted with any application for an encroachment permit, unless specific items are waived by the public works director as unnecessary:

- a. Fee as required by resolution of the village council.
- b. Completed permit form.
- c. Site plan showing the following information:
 - (1) Well location, if any.
 - (2) Existing structures, if any.
 - (3) Proposed structures including any garages.
 - (4) Location of property lines.
 - (5) Location of required setbacks and their dimensions.
 - (6) Location of proposed driveways and their grades.
 - (7) Location of any parking area proposed in lieu of meeting required driveway grades.
 - (8) Access point to village roadway.
 - (9) Location of drainage culvert, if applicable.
 - (10) Location of utilities, if applicable.
- d. Evidence of legal access.

2. Action On Encroachment Permits: Applications for encroachment permits shall be submitted to the public works department for review and action. Approval shall be granted only if the proposed driveway, roadway or recreational pathway connection meets the specifications in these guidelines and the required fee has been paid. Approval of an encroachment permit may be accompanied by any conditions deemed reasonable by the public works department to ensure protection of health, safety and welfare and compliance with these regulations. Applications for encroachment permits must be submitted at least one week prior to planned commencement of construction, and construction cannot commence without permit approval. Whenever an encroachment permit is needed for a development project, building permits shall not be issued for the project until approval is granted for the needed encroachment permit.

- a. Private driveway encroachment to single-family development is not permitted on principal arterials, minor arterials

or collector streets where encroachment to a minor street is also available.

E. Construction Specification For Encroachment Work: All work undertaken to connect driveways to existing village roadways shall conform to the NMDOT "Standard Specifications For Highway And Bridge Construction", latest edition and/or the construction standards referenced in these regulations.

F. Construction Schedule For Encroachment Work: As part of its approval of an encroachment permit, the public works department shall also approve a construction schedule. The approved schedule shall not be changed after the permit is issued without the written consent of the public works department.

G. Supervision Of Encroachment Work: The permittee shall at all times conduct work within village right of way, or recreational pathway easement so as to avoid obstruction and hazard to the traveling public. Materials necessary for construction of encroachment points to the village roadway shall not be stored in the village right of way, or recreational pathway easement at any time. The roadway and roadside area where encroachment work has been performed shall be thoroughly cleared of all debris and extraneous material and shall be restored to a condition equal to or better than the original when construction is concluded.

H. Responsibility For Rework On Encroachment Connections: The permittee shall be fully responsible for the maintenance and correction of any faulty construction, including unstable road cuts and potholes developed during the construction period and for a period of one year following the final inspection of the encroachment work. All deficiencies shall be resolved to the satisfaction of the public works department and shall meet the requirements of these standards. Failure to do so could be cause for denial for future encroachment permits. (Ord. 2007-06, 8-14-2007)

7-1-4-4: CUL-DE-SAC CRITERIA:

A. Whenever possible roadway systems shall provide at least two (2) access points to lots platted for development. Using cul-de-sac streets shall be avoided. Where cul-de-sac streets are the only alternative, turnarounds shall be provided.

B. Maximum length permitted is one thousand feet (1,000') measured from the centerline of the intersecting street to the center of the turnaround unless otherwise specifically approved by the village public works director.

C. Maximum number of dwelling units allowed to be served by a cul-de-sac is twenty (20) unless otherwise specifically approved by the village public works director.

D. Minimum radius of the right of way shall be fifty feet (50') and a minimum driving surface radius of at least forty feet (40'). In the case of lots with twenty percent (20%) or greater slopes being accessed by a cul-de-sac turnaround, the cul-de-sac shall have a right of way radius of one hundred feet (100') and shall be limited to three (3) lots having frontage on that cul-de-sac.

E. Snow storage shall be provided to keep cul-de-sac turnarounds cleared. (Ord. 2007-06, 8-14-2007)

F. Streets which are to continue within future phases, shall end in temporary cul-de-sacs designed and constructed to village specifications. (Ord. 2013-07, 8-13-2013)

7-1-4-5: HALF STREETS:

Half streets shall be prohibited. However, if all the right of way exists for a street, it is acceptable that only one-half ($\frac{1}{2}$) of the street may be required for construction as long as an additional temporary pavement section is installed concurrent with the permanent street section. (Ord. 2007-06, 8-14-2007)

7-1-4-6: ALLEYS:

A. Alleys may be provided in commercial districts, except that the village planning and zoning director may waive this requirement where other definite and assured provision is made for service access and off street loading.

B. Alley intersections and sharp changes in alignment shall be avoided, and where necessary, corners shall have a minimum radius of twenty feet (20') to permit safe vehicular movement.

C. Dead end alleys shall be prohibited. (Ord. 2007-06, 8-14-2007)

7-1-4-7: EASEMENTS:

A. In general, easements for utilities shall be provided where necessary and shall be at least ten feet (10') wide. However, the width of an easement greater or less than ten feet (10') shall be dependent on the type of utility placed.

B. Where a subdivision, land division, or site development is traversed by a watercourse, drainageway, channel, or stream, a stormwater easement or drainage right of way shall be provided which conforms substantially with the lines of the 100-year storm watercourse, and further width or construction, or both, as will be adequate for the purpose and shall conform substantially to an approved drainage plan for the area.

C. All easements shall be in a form as specified and approved by the village public works director, and where applicable, by the village attorney and accepted by the village council. In general, the easement format shall follow the village format for easements. (Ord. 2007-06, 8-14-2007)

7-1-4-8: PROJECTED TRAFFIC VOLUMES:

A. Traffic Engineering Evaluation: A site threshold assessment (STH) shall be required for all developing or redeveloping properties providing access points that are requested along the village roadway system, and shall be submitted with the encroachment permit application. The extent of the traffic engineering evaluation is directly related to the scope of the access improvement under consideration, or to the size and type of land use for which access is requested, as determined

in the STH. The STH is available in the appendices of the "State Access Management Manual", latest edition.

B. Projected Traffic Volumes: Trip generation should be based on projected ADT as set forth in the most recent edition of the "Trip Generation Manual", published by the Institute Of Traffic Engineers. (Ord. 2007-06, 8-14-2007)

7-1-4-9: PRIVATE ROADWAY:

Privateways may be allowed within subdivisions or land divisions and shall be created only where public right of way would not better serve public purposes and where privateways can adequately serve all identified transportation, utility, and stormwater handling requirements. Privateways shall be subject to the following conditions:

A. Privateways may be platted only where the village public works director determines that the proposed privateway will unlikely function as a street classified as major local or higher classification.

B. If a proposed private way is planned to serve a lot, it shall be shown on the plat creating or modifying the lot.

C. A new private way shall not be required to be narrower or wider than the appropriate class of public right of way. In general, private rights of way are to be no less than forty feet (40'). Variance from these criteria requires written approval of the village public works director and will be considered only in the case of access to one or more lots or parcels of narrow width. The minimum private roadway width for this case is twenty feet (20') for one lot and twenty four feet (24') for two (2) or more lots. More width may be required to accommodate drainage requirements. If the lands benefiting and using the easement have the potential for further subdivision, then the minimum easement widths are as follows:

1. One lot: Fifty feet (50').

2. Two (2) or more lots: Sixty feet (60').

D. A proposed plat containing a private street which, under the terms of its creation can serve more than one lot, will not normally be approved by the village planning and zoning director until the street surface is either improved as specified in the village street standards, or financial assurance satisfactory to the village public works director is posted with the village to ensure such improvement prior to the use of the street.

E. The village council on the recommendation of the village public works director may require private ways to include public or private utility easements, including easements for storm water drainage.

F. If a private way is approved, it shall clearly be identified as such on the final plat and the responsibility for operation and maintenance and the beneficiaries of the easement shall be indicated on the plat. Any legal instrument intended to assure future operation and maintenance of such private way, such as an instrument creating a homeowners' association, shall be included in the developer's submittals to the village planning and zoning department. If an easement has been created by a previous document, this document shall be referenced on the plat.

G. Private ways must, in general, be created by easements unless unusual circumstances dictate otherwise.

H. The length, width and permanent character of the private way must be suitably and legally defined by the plat establishing the lots so served, and the lots served must abut or front the proposed private way.

I. Private roads serving more than one lot must be surfaced with a minimum of six inches (6") of aggregate base course. If more than five (5) lots are served, private road surfacing shall be six inches (6") of aggregate base course and two inches (2") of asphalt concrete. A variance from these criteria requires written approval of the village public works director. (Ord. 2007-06, 8-14-2007)

7-1-4-10: CONSTRUCTION OF REQUIRED IMPROVEMENTS:

In general, formats for subdivision improvements agreements with their exhibits, extensions, ratifications, bonding, easements, encroachments, and partial releases shall follow the village format except as modified by the village attorney.

A. Improvements Required:

1. The developer shall install and construct such improvements, if any, as are required by applicable village standards. Required improvements shall be installed and constructed as specified in the improvements agreement between the applicant and the village, in accordance with the design standards and criteria established under village standards, and as shown on the approved preliminary plat. The requirement to construct improvements in accordance with the provisions of village standards applies to areas within the village and outside the village limits.

B. Infrastructure Design And Specifications:

1. In the case of subdivisions, land divisions, and site developments requiring construction of improvements, after approval of the preliminary plat the developer shall present construction plans and specifications for all improvements to the village public works director for approval, together with a proposed improvements agreement between the developer and the village specifying all infrastructure proposed for construction.

2. The plans and specifications shall:

a. Substantially conform to the preliminary plat as approved by the planning and zoning director and/or village council;

b. Be prepared in conformance with village standards;

c. Be certified by a professional engineer licensed in the state of New Mexico; and

d. Include a provision running from the developer to the village holding the village harmless from any liability resulting from negligent acts, errors, or omissions of the developer or their agents until acceptance of infrastructure by the village.

C. Improvements Agreement: After the approval of the final plat, but before any lots can be sold, the final subdivision plat must be filed with the county clerk. Before the final plat can be filed, the developer must either build all of the required improvements or must enter into a subdivision improvement agreement with the village and post a financial guarantee with the village in the amount of one hundred ten percent (110%) of the total cost of improvements. Cost estimates are to be submitted in the form of a bid estimate secured by the developer from the appropriate type(s) of contractor(s) licensed by the New Mexico construction industries division. This subdivision improvement agreement shall constitute a binding contract between the developer and the village.

D. Assurance Of Completion Of Improvements: In the improvements agreement, the developer shall agree to either:

1. Construct all improvements, and obtain a certificate of completion and acceptance for maintenance therefor prior to approval of a final plat to the planning division or village council for approval; or

2. Assure construction after final plat approval. If the developer wishes to submit the final plat for review, approval, and recording prior to completion of all improvements, they shall post a suitable improvements guarantee to accompany their improvements agreement. In general, financial guarantees are not required for land divisions (summary subdivisions of 2 lots). Improvements shall be required to be constructed prior to plat filing. The guarantee shall be not less than one hundred ten percent (110%) of the cost of completing the improvements. A quantity estimate for the improvement shall be submitted by the developer with current rates for infrastructure determined or approved by the village of Angel Fire public works department. The improvements guarantee shall also secure all lot improvements that are essential to the delivery of services or utilities to the individual lots of the subdivision or land division as specified by village standards. Such guarantee may be by bond, letter of credit, escrow deposit, or other method specified by the village public works director. In general, the format for these agreements shall follow the village format.

E. Temporary Improvements: The developer shall build and pay for all costs of temporary improvements (such as in phased projects) specified in the improvements agreement and shall maintain same for the period specified in any applicable village ordinance or as specified by the village public works director. Costs for removal of temporary improvements may be included if specified in the improvements agreements. Temporary improvements shall also be included with the financial guarantees.

F. Costs Of Improvements: Any and all costs of new road construction in new developments are the responsibility of the developer. The developer is also responsible for constructing the new roads according to these standards.

During the approval process for a proposed development, the developer may be required to construct a new road or to make improvements to an existing road that also benefits future developments. The village council may establish a plan of compensation to the original developer whereby subsequent beneficiaries pay a fair share for the use of those improvements. Such a plan would be administered by the village and made a condition of approval for future benefiting developments. The village council shall determine the equitable distribution of benefits and costs.

G. Improvements Serving Off Site Areas: If any infrastructure improvements which will ultimately serve lots in addition to those included in the proposed subdivision are to be constructed, and the developer proposes to construct said improvements prior to final plat approval, the developer shall prepare a plat or other suitable legal instrument dedicating to the appropriate governmental entity sufficient property interests to accommodate said improvements. This plat or legal instrument may be approved by the village planning commission at the meeting at which it considers the preliminary/final plat for the subdivision or land division as a whole. In the case where financial guarantees are provided, such separate final plat and/or legal instruments shall be approved prior to the village public works director granting approval to proceed with construction of any such improvements guarantee sufficient to ensure completion of any such improvements.

In cases where the impact of a development requires improvements to off site transportation facilities accessing a development and these improvements are determined to be necessary for public safety or for traffic operations, the developer shall bear the cost of such improvements. Such improvements may include, but not be limited to, improvements such as major drainage crossing structures, traffic lighting, street lighting and resurfacing or reconstruction of the facility.

H. Inspection:

1. It is the responsibility of the permittee to contact the public works department two (2) days in advance when requesting inspections and thirty (30) days' notice before the construction is to commence in advance of required inspections. A final inspection at the conclusion of construction is required. In making this inspection, the public works department shall check for compliance with these regulations and approved plans, and also for adequate cleanup of roadway or recreational pathway surfaces and the right of way, or recreational pathway easement. Certificates of occupancy shall not be issued by the building division until access work is determined to be satisfactory by the public works department.

2. Any work or material which does not conform to these regulations, any pavement failures or broken asphalt, damaged signs or fencing, and remaining debris either in the roadway or adjacent property, or improper drainage shall be brought to the attention of the permittee both verbally and in writing. Any work in which untested or unaccepted materials are used shall be ordered removed and replaced at the permittee's expense. Any required corrective work shall be made at the permittee's expense and shall be done to the satisfaction of the public works department. If immediate corrections are not made, further project construction shall be stopped.

3. In determining whether or not the access work done by the permittee is acceptable, the public works department may consult with other departments. If a determination is made that testing is required, the number and location of the tests shall be determined by the public works department. If the public works department determines testing by an independent lab is necessary, the cost of such testing shall be paid by the permittee.

I. Acceptance And Maintenance Of Improvements:

1. All improvements shall be completed to the satisfaction of the village public works director, and all public infrastructure shall be dedicated to the appropriate governmental entity free and clear of any liens and encumbrances. Upon a determination by the village public works director that all improvements have been satisfactorily completed, the developer shall furnish the village public works director as built plans (paper and digital) for such improvements in a format acceptable to the planning division. The village public works director's acceptance shall become effective only upon such approval, and the certificate shall so specify.

The final plat shall grant or reference all drainage and utility easements. Any easement agreements, if required, shall be on forms specified by the village public works director and shall be filed either before or concurrently with the final plat. Where utility infrastructure is located in the public right of way, a franchise agreement between the village and the utility shall be filed before or concurrently with the final plat. This franchise agreement shall be on a form as specified by the village public works director and requires approval by the village of Angel Fire council.

2. Maintenance of all public infrastructure improvements and public areas shown on the preliminary or final plat shall be the responsibility of the developer and their agents until acceptance by the village or other governmental entity pursuant to this section and applicable village ordinances. The village shall issue a certificate of completion and acceptance within fifteen (15) days after a final inspection thereof by appropriate village personnel, when it has been determined upon such inspection that all installations have been constructed and/or installed in accord with approved plans and specifications for the subdivision or land division.

3. The developer shall be required to record a bond or cause a bond to be executed by the contractor with the village public works director prior to dedication, in an amount considered adequate by the village public works director and in a form satisfactory to the village attorney, in order to assure the qualities of materials and workmanship of the required improvements for a period of one year after the date of their acceptance. Such amount of financial guarantee shall not exceed the cost of the improvements. In general, the bonds may follow the village format.

J. Partial Completion And Reduction Of Guarantee: Upon issuance of a certificate of completion and acceptance pertaining to a portion of the required improvements, the village public works director may agree to the reduction of any improvements guarantee, but not less than one hundred ten percent (110%) of the cost of completing the remaining required improvements. A quantity estimate for the improvements shall be submitted by the developer with current rates for infrastructure determined or approved by the village of Angel Fire public works department.

K. Failure To Complete Improvements:

1. Improvements which are to be constructed prior to submission of the final plat for review shall be completed prior to expiration of the preliminary plat. If the improvements are not completed prior to the preliminary plat expiration date, and if there is not satisfactory assurance of completion in lieu thereof, as provided in this standard, the preliminary plat approval shall be deemed to have expired.

2. If improvements to be constructed after final plat approval (including improvements serving off site areas as specified in this standard) have not been installed within the terms of the improvements agreement, the village may declare the agreement to be in default and, after thirty (30) days' notice by registered mail to the developer and their surety, may cause all improvements to be installed and may hold the developer and any surety jointly and severally liable for the costs of completing such improvements. If constructed within public right of way or public easement or other public area, such improvements shall thenceforth be owned by the appropriate governmental entity without further dedication.

L. Design Fee:

1. A design fee of five percent (5%) of the construction infrastructure cost of the project as determined by a quantity estimate prepared by the developer with current rates for infrastructure determined or approved by the village of Angel Fire public works department shall be charged to the developer. This design fee shall be charged in order to cover village of Angel Fire public works department costs of design review, inspection, and administrative expenses incidental to the processing and approval of land divisions and subdivisions.

2. Testing fees, if required by village inspection, shall be paid for by the developer. Construction staking by the village is not included in this fee. If the developer performs or has performed for them their inspections under the supervision of a licensed, professional engineer, a percentage, as determined by the village council, shall be deducted from this fee.

3. As a design deposit fee, approximately one-fourth (1/4) of the estimated design fee shall be paid prior to start of the construction work. Fees are nonrefundable. By resolution, the village council shall periodically adopt rules which amend the fee schedule so that fees are set at village cost. Revised fee schedules enacted by the village council shall be conveyed to the village clerk and shall be brought to the attention of the interested public. (Ord. 2007-06, 8-14-2007)

7-1-4-11: NAMING OF STREETS:

A. All proposed names for new or existing streets must be reviewed by the planning and zoning department to ensure the street names are unique and do not duplicate existing street names. (Ord. 2007-06, 8-14-2007)

7-1-4-12: UTILITY EASEMENT AND RIGHT OF WAY AGREEMENTS:

All new construction by public and private utilities which will occupy the public right of way shall be required to have executed an easement and right of way agreement with the village on a form specified by the village public works director and approved by village of Angel Fire council. In general, such agreements shall be required to include, but not be limited to, the following general items:

A. The responsibility of the utility to relocate its lines at no cost to the village should the village so require the utilities to relocate their facilities or lines as a result of the reconstruction or new construction of a street once the utility company has been given a notice of sixty (60) days by the village.

B. The responsibility of the utility to give reasonable notice to the village of proposed construction in the public right of way, to obtain appropriate excavation permits and pay appropriate fees shall be in accordance with the most current version of the franchise agreement executed between the village and said utility.

If the utility does not have such an agreement executed with the village, they shall obtain an excavation permit and shall also pay a design review fee of 1.5 percent of the construction cost of its improvements. This fee shall not be charged if the utility design is incorporated with the design of improvements which require the payment of a design fee paid by a developer. This fee is based on a quantity estimate performed by the utility with the application of current infrastructure rates as determined or approved by the village of Angel Fire public works department.

C. The responsibility of the utility to obtain barricading permits and to ensure that the public safety is not endangered during the period of construction.

D. As of the effective date of these village street and drainage design standards, all new construction by private and public utilities within the public right of way in village jurisdiction which do not have a franchise agreement which complies with the above requirements and approved by the village public works director shall be required to comply with all requirements of this section. (Ord. 2007-06, 8-14-2007)

7-1-4-13: ENCROACHMENTS, LITTER PROHIBITED:

A. Obstructing Public Ways: No person shall obstruct or place an encroachment upon any village public way or other public place except as authorized by the village council.

B. Littering Public Ways: No person shall litter, track, deposit or cause to be littered, tracked or deposited ashes, sand, gravel, rocks, mud, dirt, rubbish, wastepaper, garbage or any other debris or material, except snow, upon any public way or any portion thereof.

C. Deposits From Equipment: No person owning or operating trucks and other vehicles shall fail to clean such vehicles to eliminate their tracking or depositing sand, gravel, rocks, mud, dirt or any other debris or material, except snow, upon any public way or any portion thereof.

D. Snow Deposits: No person shall plow, shovel or otherwise deposit or cause to be deposited any snow upon any public way or any portion thereof. It is a violation of this subsection to plow, shovel, blow or sweep snow directly from a sidewalk, driveway, residence, or otherwise deposit snow which impairs the use of the street by vehicular traffic. The provisions of this subsection do not apply to persons brushing off snow which has accumulated naturally upon a motor vehicle parked or driven upon a public way.

E. Enforcement:

1. Issuance Of Notice: If the village clerk finds that any person has violated the provisions of this section, the village clerk may notify the person of the duty to remove sand, gravel, rocks, mud, dirt, snow or any other debris or material so deposited within twenty four (24) hours from the date of the notice. Notice under this subsection is sufficient if hand delivered to the person or an employer of such person. No such notice shall be required if the village clerk determines that an emergency exists. No person shall fail or refuse to comply with the notice of the village clerk prescribed by this subsection.

2. Removal By Village; Costs To Violator: If the person so notified fails to remove debris as required by the notice described in this section, or if the village clerk determines that an emergency exists, the village clerk may remove the debris or cause it to be removed and charge the costs thereof to the person violating the provisions of this section.

3. Failure To Pay Costs; Collection: If any person fails or refuses to pay, when due, any charge imposed under this section, the village clerk may, in addition to taking other collection remedies, certify due and unpaid charges to the village finance director for collection. (Ord. 2007-06, 8-14-2007)

7-1-4-14: CERTAIN VEHICLES PROHIBITED:

A. Snowmobiles: It shall be unlawful for any person to use, operate or to permit the use or operation of a snowmobile upon any street within the village. (See also title 6 of this code.)

B. Trailer Coaches Or Mobile Homes: It shall be unlawful for any person to use or occupy any vehicle or similar portable structure having no foundation other than wheels or jacks, and so designed or constructed as to permit occupancy for dwelling or sleeping purposes, whether the same is self-contained or not, for human habitation upon the public ways or upon any public property within the limits of the village. (Ord. 2007-06, 8-14-2007)

7-1-5: ENGINEERING DESIGN CRITERIA:

The criteria presented herein are major controlling factors in the design of streets. It is expected that the designers will exercise careful attention to detail in the application of these criteria to design circumstances. Suitable transitional elements

must be provided between changes in geometric configuration, pavement and curb character, and drainage carrying aspects of the ultimate street design.

In the following, the major criteria governing design speed, horizontal and vertical geometrics, sight distance, curvature and superelevation, gradients, and comfort controls are presented in applications of the criteria. These materials are followed by sections treating the design of special elements related to streets. (Ord. 2007-06, 8-14-2007)

7-1-5-1: GENERAL DESIGN CRITERIA:

The fundamental approach to street design presented herein is to first identify the design speed the facility is to accommodate and the nominal vehicle type which is to govern the design. Designing is then accomplished by selection of appropriate characteristics to accommodate the design vehicle at the design speed in a safe and efficient manner at reasonable cost on a durable street. Table 7-A, "Summary Of Road Design Elements", of this section summarizes criteria considered minimum in village of Angel Fire for various classifications of streets. Design speeds given are intended to establish levels to which facilities are to be designed; posted legal speeds are established only after appropriate examination of the completed street by the village public works director.

TABLE 7-A

SUMMARY OF ROAD DESIGN ELEMENTS

Design Element	Arterial ¹	Collector	Local Access	Local Volume	Primitive
Right of way (minimum)	100	80	60	50	40
Recommended design speed	40–55	35–45	25–35	20–35	20–30
Design capacity (ADT)	2,000–4,999	601–1,999	301–600	500	100
Number of lanes	2–4	2	2	2	1–2
Lane width	12'	12'	12'	12'	10'–12'2
Shoulders	6'	4'	2'	2'	0'
Maximum sustained grade	8%	8% ³	8% ³	10%	12%
Surfacing requirements (minimum)	4" PMBP ⁴	3" PMBP ⁴	2" PMBP ⁴	Double penetration chip seal ⁴	4" aggregate base
Aggregate base course (minimum)	12"4	8"4	6"4	6"4	4"
Crown slope	2%	2%	2%	2%	3% ⁵
Ditch section cut slope:					
Foreslope/backslope (maximum)	4:1/2:16	4:1/2:16	3:1/2:16	3:1/2:16	2:1/1.5:16
Ditch section fill slope:					
Foreslope/backslope (maximum)	4:1/2:16	4:1/2:16	3:1/2:16	3:1/2:16	2:1/1.5:16

Notes:

1. Applies to minor arterial only. Principal arterial design elements must conform to those established by the NMDOT and/or the FHWA.
2. For roads having 1 lane, lane must be 12 feet; for roads having 2 lanes, each lane must be 10 feet.
3. See guidelines for exceptions.
4. The greater of the minimum requirements in this table or the requirements identified in a pavement structural design shall be used.
5. 3 percent crown slope required for all roads with an aggregate base gravel finished surface.
6. Slopes must be properly protected to prevent erosion.

(Ord. 2007-06, 8-14-2007)

7-1-5-2: GEOMETRIC CRITERIA:

The major considerations in alignment design are safety, grade, profile, street width, design speed, sight distance, topography, drainage and the maneuverability, braking and performance of heavy duty vehicles. Alignment should provide for safe and continuous operation at a uniform design speed. In mountainous areas, consideration should be given to locating the street so that a southern exposure will be obtained wherever possible. Street layout should bear a logical relationship to existing or platted streets in adjacent properties and to the principles of good engineering practice. All streets shall be designed such that the streets are centered in the right of way.

In general, criteria for the horizontal and vertical geometrics of street design provided within the following tables will be the minimum acceptable values. Unless otherwise specified, refer to "A Policy On Geometric Design Of Highways And Streets", latest edition by the American Association of State Highway and Transportation Officials for geometric criteria. Other factors must also be considered in a balanced design.

A. Vertical Alignment:

1. Minimum And Maximum Grades: Minimum and maximum sustained grades shall be 0.5 percent and eight percent (8%), respectively, except as provided below. Increases in grade will be permitted for sections of street where the horizontal radius of curvature exceeds one thousand five hundred feet (1,500') as follows:

One percent (1%) for five hundred feet (500') maximum to a maximum of nine percent (9%).

Two percent (2%) for two hundred feet (200') maximum to a maximum of ten percent (10%).

a. No two (2) such sections will be within five hundred feet (500') of each other or within five hundred feet (500') of a curve having a radius of less than one thousand five hundred feet (1,500').

b. All grades will flatten to three percent (3%) or less for at least one hundred feet (100') approaching intersections, measurements taken from the intersection of the rights of way lines.

c. Grades approaching the turnarounds in cul-de-sacs will be four percent (4%) or less for at least fifty feet (50'), measurements taken from the point of tangency of the road and bulb.

d. The maximum design grade should be used infrequently rather than as a value to be used in most cases.

2. Exception To Maximum Grades: A local access or low volume street may have sections with a grade of nine percent (9%) provided all of the following conditions are met:

a. The section shall be surfaced with six inches (6") of aggregate base course and two inches (2") of PMBP asphalt.

b. The section shall be no longer than five hundred feet (500').

c. The section shall have a horizontal radius of one thousand five hundred feet (1,500') or greater.

d. Grades shall not exceed six percent (6%) for five hundred feet (500') on either end of the section.

e. Curves with a horizontal radius of less than six hundred feet (600') shall not be within five hundred feet (500') on either end of the section.

f. Land on each side of the section must be designated permanent open space.

3. Vertical Curves: Vertical curves must be designed to provide adequate stopping and passing sight distance, headlight distance, driver comfort and good drainage.

a. Stopping sight distance requirements control minimum lengths of crest vertical curves. Then minimum length for sag and crest vertical curves will be determined by table 7-B of this section.

b. Vertical curves that are long and flat may develop poor drainage and should therefore be avoided.

c. Vertical curves are not required where the algebraic difference in grade is less than 0.5 percent where curb and gutter is used in the road section and four percent (4%) otherwise.

4. Site Distance: The grade line must meet sight distance requirements for the design speed. Table 7-B of this section provides the minimum passing sight distance for the crest of vertical curves.

TABLE 7-B

Design Speed	Stopping Sight Distance	Passing Sight Distance
15	100	500
20	150	700
25	200	900
30	250	1,100
35	300	1,300
40	400	1,500
45	500	1,650
50	600	1,800
55	700	1,950

B. Horizontal Alignment:

1. Stopping Site Distance: Horizontal alignment must provide at least the minimum stopping distance for the design speed at all points. This includes visibility at intersections as well as around curves and roadside encroachments. The

minimum stopping sight distance is the distance required by the driver of a vehicle traveling at the design speed to bring the vehicle to stop after an object on the street becomes visible. Stopping sight distance should be in accordance with table 7-B of this section.

a. Where an object off the pavement restricts site distance, the stopping sight distance determines the minimum radius of curvature, but in no case will it be less than as specified in table 7-C of this section.

b. Offset clearance to achieve stopping sight distance on horizontal curves can be obtained from table 7-C of this section. The centerline of the inside lane is used, with the offset distance measured from the centerline of the inside lane to the obstruction.

TABLE 7-C

<u>Design Speed</u>	<u>Minimum Curvature Of Radius</u>	<u>Minimum Tangent Lengths</u>
15	75	50
20	125	75
25	175	100
30	250	150
35	375	200
40	550	250
45	700	250
50	850	250
55	1,200	250

2. Passing Sight Distance: Passing sight distance is the minimum sight distance that must be available to enable the driver of one vehicle to pass another safely and comfortably without interfering with oncoming traffic traveling at the design speed. Two (2) lane streets should provide adequate passing zones. Required passing sight distance for given design speeds are stated in table 7-B of this section.

3. Curvature: Table 7-C of this section specifies the minimum centerline radius of curvature for specific design speeds. This table is based on speed alone and does not take into consideration sight distance factors. Every effort should be made to exceed the minimum values.

a. Consistency in design speed and curve radii should be used to avoid surprising the driver. Where changes in the design speed are necessary, the design speed between approach tangents and curves will not change by more than ten (10) miles per hour. Under no condition will a low speed curve be introduced at the end of a long tangent, where high approach speeds are anticipated. Compound curves should be avoided. Reversing curves without an intervening tangent will not be permitted where design speeds exceed twenty five (25) miles per hour. The minimum lengths of such tangents are specified in table 7-C of this section. Broken back curves are not allowed.

4. Curb Returns: Curb returns or pavement rounding radii at intersection corners are as follows:

TABLE 7-D

<u>Street Classification</u>	<u>Curb Return Radius</u>
Local	25 feet
Collector	30 feet
Arterial	50 feet

a. Additional right of way will be required to provide a minimum clear distance for fifteen feet (15') between the curb or edge of pavement and the right of way limit.

b. The given criteria are intended as requirements in new developments and as desirable where feasible in redeveloping areas. All radii are measured to the back of the curb section in urban street sections and to the edge of the street surface in rural street sections.

c. The selection of appropriate curb return radii at intersections depends largely upon the governing design vehicle expected to negotiate turning movements about the return and its effect on traffic flow. Streets commonly expected to experience large commercial vehicles or bus traffic will require larger radii at intersections than local streets.

d. The designer should consult the village public works director prior to beginning design of any intersection involving principal or minor arterials and collector streets of like classifications. Radii requirements for intersections in commercial or industrial areas should also be reviewed with the village public works director prior to design. These classifications of streets frequently experience special traffic circumstances for which the village public works director will require the use of larger radii.

5. Intersections: The minimum distance between intersections for various street classifications is as follows:

TABLE 7-E

<u>Street Classification</u>	<u>Distance</u>
Local	200 feet
Collector	500 feet
Arterial	1,000 feet

a. Distance is measured from the inside edge of each right of way.

C. **Balanced Design:** An abrupt, inconsistent change in either horizontal or vertical alignment is not acceptable. Thus, long, straight reaches of residential street, conducive to excessive speed, followed by sharp changes in alignment which can be negotiated safely only at low speed are to be avoided. Balanced design will result in appropriately consistent low speed alignment and street arrangement to preclude such hazardous situations. The designer is particularly cautioned to maintain distances and stopping distances. Production vehicles, particularly passenger cars, have rapidly changing characteristics related to driver eye height above street surface and to braking effectiveness.

When connecting street lines deflect from each other at any one point by more than ten degrees (10°), they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than two hundred feet (200') for local or collector streets and for special cases of a greater radius as the village public works director shall determine. (Ord. 2007-06, 8-14-2007)

7-1-5-3: INTERSECTION DESIGN:

A. **Angle Of Intersection:** Streets must be designed to intersect at right angles as nearly as practical consistent with topography and sound design. In general, the acute angles at intersections for all streets shall be eighty degrees (80°) minimum. However, safety, right of way feasibility, and traffic efficiency shall be causes for variance from the eighty degree (80°) criterion.

B. **Spacing Of Intersections:** Intersections of streets along arterial streets are to be minimized. Following are limiting values to be observed:

1. Streets intersecting arterials must generally be spaced no closer than nine hundred feet (900') on center.

2. Intersections of streets which are not on continuous alignment through the street intersected are to be spaced as follows:

a. Intersections of noncontinuous streets must be spaced at least one hundred fifty feet (150') between centerlines of streets on local streets,

b. Three hundred feet (300') on collector streets, and

c. Four hundred feet (400') on all arterial streets.

3. Variances from these criteria will require approval of the village public works director.

C. **Intersection Grading:**

1. Intersections must be graded to provide characteristics consistent with the design speed of the through street. Projected curb flow line profiles through the intersection will be required for design review of major intersections involving arterial and collector streets.

2. Minor leg approach tangent gradients to intersections generally must not exceed four percent (4%) for a distance of at least fifty feet (50') back from the projected curb flow line of the through street. Deviations from this standard will require concurrence by the village public works director.

3. Street crown may be reduced through intersections of major streets of approximately equal classification if desirable to promote comfort. Crown reduction should not generally exceed one-half (1/2) of standard crown unless special circumstances govern and concurrence by the village public works director is obtained. Intersection grading must provide for rapid drainage.

4. Grades intended to serve as drainage water blocks may only be designed on minor approach legs of intersections. Maximum height of such water blocks allowed will be twelve inches (12") as measured vertically from the projected gutter flow line elevation of the major or through street to the gutter flow line elevations at the high point of the minor leg gutter. Vertical curves of a minimum length of fifty feet (50') must be provided for water block configuration. Adequate stopping sight distance must be provided in the design conforming to the criteria given in table 7-B in section 7-1-5-2 of this chapter.

5. Intersection designs must provide for clear sight distances in the horizontal plane. Designs should comply with the following criteria:

a. No such obstruction to view between three (3) and eight feet (8') above the gutter line shall be placed or maintained within a triangular area at the street corner, which area is bounded by: 1) the street property lines of the corner

lot and a line connecting points twenty five feet (25') distant from the intersection of the property lines of such lot, or 2) the curb lines of an intersection and a line connecting points thirty five feet (35') distant from the corner of the intersection and such corner is determined by projecting the curb lines out to a specific point, whichever is the lesser.

6. The designer should specifically investigate intersection design to assure that design flows will not overtop curbs resulting in damage outside the right of way. (Ord. 2007-06, 8-14-2007)

7-1-5-4: PAVEMENT STRUCTURAL DESIGN CRITERIA:

A. Required lane widths and right of way requirements for all classes of streets are presented in table 7-A, "Summary Of Road Design Elements", of section 7-1-5-1 of this chapter. Subgrade soils investigation and evaluation will be necessary to determine the bearing values of the proposed subgrade soils. It is the designer's responsibility to determine that these details are applicable. A pavement design which varies from these standard details but conforms to the design procedures of the AASHTO "Interim Guide For Design Of Pavement Structures" published by the American Association of State Highway and Transportation Officials, Washington, D.C., may be submitted for review by the village public works director. The structural design guide for flexible pavements established by the New Mexico department of transportation may also be used. Variance from the standard details shall require written approval of the village public works director.

B. Acceptable design procedures require investigation and evaluation of subgrade soils and traffic data including an estimated percentage of heavy vehicles. A regional factor of 1.5, a serviceability index of 2.5, and structural coefficients equal to those used by the New Mexico department of transportation shall be used. Presentation of such data may be required to accompany the design submittal but shall be made available to the village upon request.

C. The structural design and construction specifications for the streets to be paved are to be established by a professional engineer licensed with the state of New Mexico.

D. When gravel roads are to be constructed:

1. The applicant shall submit specifications for the gravel surfacing and are to conform to the New Mexico department of transportation "Standard Specifications For Road And Bridge Construction", latest edition.

2. All such specifications shall be subject to approval by the village of Angel Fire.

3. Paved streets may be substituted for gravel roads at the discretion of the applicant, when the minimum requirement is for gravel roads.

4. On gravel roads the crown shall be three percent (3%).

5. Drainage structures shall be placed under the roadway at all intersections with arroyos or watercourses. Drainage structures shall be sized to pass the runoff from a 50-year, 24-hour frequency storm, and shall be approved by the village public works director. (Ord. 2007-06, 8-14-2007)

7-1-5-5: GUARDRAILS:

A. General: Guardrails are installed to reduce the occurrence of accidents by delineating the roadbed, to reduce accident severity by deflecting vehicles into safer paths, and to reduce the rate of deceleration in case of impending collisions with fixed objects.

B. Design And Placement: Only NMDOT approved guardrails shall be used. The length of guardrail should be planned in multiples of 12.5 feet. No abrupt or projecting ends shall face toward approaching traffic and delineators shall be installed according to the current edition of the New Mexico department of transportation "Standard Specifications For Road And Bridge Construction". Ordinarily, guardrail is placed only on the outside of curves.

1. Curbs: When guardrail is used in conjunction with roadside curbs, the face of the guardrail shall be flush with the face of the curb regardless of shoulder width. This is to prevent the takeoff ramp effect that may overturn a vehicle. When no curb is present, the face of the guardrail shall be flush with the edge of the shoulder.

2. Curves: On curves requiring a reduction in approach speeds, any one of the following conditions suggests installation of guardrail on the outside of the curves is needed:

a. Height of embankment is more than ten feet (10').

b. Side slopes are steeper than four to one (4:1).

c. Shoulder or pavement widths are substandard.

d. Roadside hazards are present.

3. Accidents: Whether on curves or tangents, consideration should be given to the installation of guardrails if there is a history of roadway accidents or if unusually high embankments or steep terrain give motorists a feeling of insecurity.

4. Low Visibility: In areas subject to low visibility or snow and ice conditions, or where traffic speed and volumes are high, guardrail may be needed where its installation would otherwise be questionable under less adverse conditions.

5. Other Conditions Requiring Guardrails: Guardrails may be required under the following conditions:

a. An obstruction or sudden constriction in roadway.

b. An isolated sharp curve on a roadway otherwise built to higher standards.

c. Approaches to bridge piers, abutments, trees or other obstructions.

C. Provisions For Snow Storage: When guardrails are considered for installation, especially for extended lengths, provision shall be made for adequate snow storage and removal. (Ord. 2007-06, 8-14-2007)

7-1-5-6: SNOW STORAGE AND REMOVAL:

A. General: Adequate space for snow storage shall be provided in the design of all roadways within the village. For planning purposes, one square foot of snow storage space is generally necessary for each two (2) square feet of area to be cleared. This ratio may be somewhat greater or lesser depending on individual circumstances.

B. Snow Stacking: Snow stacking areas shall be provided for all public rights of way. Maximum stacking height allowed within public rights of way is five feet (5'). Stacking height, however must not obstruct site distance at intersections. Extra snow stack areas at intersections and cul-de-sacs is required.

Snow stacking for driveways shall be provided on the owner's property. Use of the public rights of way for snow storage by private individuals or companies is prohibited.

C. Accumulations Prohibited On Pedestrianways: No owner, manager, agent or occupant of real property within the village shall allow snow or ice to accumulate on public sidewalks and pedestrian passageways abutting their property, and they shall have joint and equal responsibility for the removal of all such snow and ice. Individual owners, managers, agents or occupants of real property shall provide continuous removal of show and ice on public sidewalks and pedestrian passageways abutting their property.

1. The Village of Angel Fire shall conduct snow and ice removal for all sidewalks and pedestrian passageways abutting public right of ways in response to a significant snow event. A significant snow event is when there is an accumulation of at least four (4) inches of snow within a twenty four hour time period. (Ord. 2007-06, 8-14-2007; amd. Ord. 2022-02, 2-22-2022)

7-1-5-7: DESIGN REQUIREMENTS FOR CURB AND GUTTER:

A. General: Construction of curb and gutter must conform to the current village of Angel Fire standard details, and materials to the current edition of the New Mexico department of transportation "Standard Specifications For Road And Bridge Construction".

B. Exterior Curb Section: Standard six inch (6") high barrier type curb and gutter, as shown in the standard details, must be used as the exterior curb section for all classes of arterial collector, and major local streets. Deviations from these standards will require written approval of the village public works director, and shall be considered only in developing, semiurban or rural areas.

C. Median Curb: Median curb must be either a barrier or mountable as required by the village public works director for the street in question.

D. Barrier Curb And Gutter: The village public works director shall require barrier curb and gutter or mountable type curb at developing, semiurban areas, and rural areas which would normally require a rural street section. Factors that influence such requirements are:

1. Improving the drainage capability of the roadway to accommodate flows in developments of two (2) or more dwelling units per acre or where the roadway will be subject to large surface flows.

2. Elimination of potential shoulder deterioration of the roadway due to heavy load traffic.

3. Reduction of shoulder maintenance.

E. Sidewalks: If curb and gutter is required, the village public works director may also require sidewalks. (Ord. 2007-06, 8-14-2007)

7-1-5-8: DESIGN REQUIREMENTS FOR CURB CUTS, DRIVE PADS, AND PRIVATE CURB RETURN ENTRANCES:

A. Common Drives: In residential areas with townhouse (zero lot line) development, common drives centered on common lot lines will be allowed up to fifty feet (50') in width measured at the gutter line. Minimum width shall be thirty feet (30').

B. Drive Pad Design Standards:

1. The construction of drive pads must conform to the village design standards, and materials to the current editions of the New Mexico department of transportation "Standard Specifications For Road And Bridge Construction".

2. Drive pads should cross the sidewalk on the sidewalk grade line without depression of the sidewalks. However, if a drive pad gradient in excess of ten percent (10%) would be required to avoid depression of the sidewalk, the sidewalk shall be transitioned to match the drive pad within six feet (6') and the drive pad gradient shall be maintained.

3. Abandoned or no longer used drive pads entering a site to be developed or redeveloped must be replaced with curb and gutter and sidewalk must be installed at the grade of adjacent sidewalks in accordance with current standards.

4. Drive pads on the state highway system must be approved by the New Mexico department of transportation as well as by the village.

5. All drive pads must be constructed from the edge of the driving lane to the property line. If the property line is twenty feet (20') or more from the edge of the driving lane, a fifteen foot (15') depth is satisfactory.

C. Damage: Should the property owner, or their contractor, damage the integrity of the existing street surface adjacent to a curb cut, he shall be responsible for restoring the surface as directed by the village public works director.

D. Drive Pad Widths (Nonresidential):

1. Arterials and collectors: Thirty foot (30') minimum for right turn in and out (no left turn access); thirty five feet (35') desirable. Thirty five foot (35') minimum with left turn access; forty feet (40') desirable.
2. One-way drives: These are only permitted where the circulation is self-enforcing; that is, the circulation pattern allows for desired flow by the motorist. The drive pad shall be designed for the turning path of the vehicle utilizing the drive.
3. Widths for larger vehicles: Up to fifty foot (50') width for tractor trailer combinations, mobile homes.
4. Local streets:
 - a. Twenty five foot (25') minimum for two-way access to and from street; exception is for when five (5) or less spaces are required; twelve foot (12') minimum width for one-way access.
 - b. No backing into the streets is permitted.
 - c. Twenty five feet (25') to thirty five feet (35') permitted.
 - d. Forty feet (40') to fifty feet (50') for substantial large vehicle usage.
 - e. Twelve feet (12') to twenty feet (20') for one-way drive (with appropriate signs and parking layout).

E. Maximum Number Of Drive Pads/Entrances:

1. Principal arterials: As allowed by the New Mexico department of transportation with consideration given that one to two (2) drives per three hundred foot (300') frontage depending upon various factors including the general layout of the site.
2. Minor arterials: One to two (2) drives per one hundred fifty foot (150') frontage.
3. Collectors: One drive per seventy five foot (75') frontage.

F. Curb Return Construction vs. Drive Pad Construction: Curb returns provide better entering and exiting characteristics for vehicles. These will be required where there are sufficient numbers of vehicles entering and exiting developments on arterials. They will be permitted in other cases given sufficient traffic generation.

1. Curb returns required:

a. On arterials where:

- (1) High generators with fifty (50) or more required spaces.
- (2) The development has median access and twenty five (25) or more spaces.

2. Curb returns permitted:

a. On arterials where:

- (1) High generators with twenty five (25) or more spaces.
- (2) Medium generators with fifty (50) or more spaces.

b. On collectors where:

- (1) Twenty five (25) or more spaces per drive or to accommodate large vehicles (tractor trailer combinations).

c. Local where:

- (1) Fifty (50) or more spaces per drive or to accommodate large vehicles.

G. Location Of Drives: Drives are to be somewhat evenly spaced where there is more than one drive. The following distances should be used as minimums for an intersection. Dimensions are from face of curb of intersecting street to the centerline of drive pad or access.

1. Minor Arterial:

a. Approach condition:

- (1) One hundred fifty feet (150') to an arterial or collector intersection.
- (2) Seventy five feet (75') to a local street.

b. Following condition:

- (1) Seventy five feet (75') from collector or arterial intersection.
- (2) Fifty feet (50') from a local street intersection.

2. Collector:

- a. One hundred feet (100') to a collector or arterial intersection.
- b. Fifty feet (50') to a local street intersection.
- c. Fifty feet (50') following any intersection.

3. Local:

- a. Fifty feet (50') from intersection with arterial.
- b. Twenty five feet (25') from intersection - any other street.

4. Drives With Median Access:

a. Streets with median channelization: Drives need to be placed such that the centerline of the drive is approximately centered on the median openings. Where a drive exists on the opposite side of the street, the centerline of new drive needs to be within ten feet (10') of the existing drive centerline.

b. Streets without median channelization: Where drives are to be constructed on opposite sides of the street, unless they are small developments, or offset by more than fifty feet (50'), the centerline needs to be within fifteen feet (15') of each other. (Ord. 2007-06, 8-14-2007)

7-1-5-9: DESIGN REQUIREMENTS FOR SIDEWALKS:

The fundamental requirements governing sidewalk design are established by this standard. Sidewalk designs must provide for mobility, safety and conform of the pedestrian and provide for adequate pedestrian access to abutting property. Pertinent sidewalk design criteria are collected herein for the convenience of the designer.

A. Sidewalk Widths:

- 1. Six foot (6') width is required when constructed with streets designated as follows:
 - a. Arterial.
 - b. Collector: When abutting land zoned high density residential, commercial, or where development is similar to that allowed in the preceding zones.
 - c. Local or collector: Abutting grounds of schools or churches.
- 2. Four foot (4') width where constructed with local or collector streets.
- 3. Special widths as per adopted plans.

B. Sidewalk Location; Horizontal:

- 1. Along arterial streets, sidewalks must be located within the right of way so that the street side edge of the walk is twelve feet (12') from the back of the curb, where sufficient right of way is available. If right of way is insufficient, the walk must be set within the right of way with the property side edge at the property line.
- 2. Along collector, major local, and local streets, sidewalks must be located within the right of way with the property side edge of the walk at the property line.
- 3. Variances from sidewalk standards will require approval by the village public works director.
- 4. Sidewalk location adjacent to curbs is discouraged. Interference of other items of street furniture such as street lighting standards and fire hydrants and the resultant close proximity between pedestrian and vehicular traffic make this location highly undesirable.
- 5. Unless a variance has been granted by the village public works director, a minimum of three feet (3') of separation must be maintained between sidewalk and the back of any mountable or flat curb.

C. Transverse Slope:

- 1. Sidewalks shall be provided with a transverse slope of one-fourth inch (1/4") per foot, sloping toward the street. If other transverse slopes are proposed, they must be safe for pedestrian and handicapped traffic.

D. Sidewalk Location; Vertical:

- 1. The sidewalk must be located vertically such that the top surface of the sidewalk will be at or above the top of curb at the lowest point on the sidewalk and must be appropriate to the overall street section design within the right of way.

E. Sidewalk Materials:

- 1. Sidewalks are to be of Portland cement concrete of a minimum of four inch (4") thickness as shown in the standard details. Designs incorporating alternate materials must be approved by the village public works director. The basis for consideration of such approval will be appropriateness, safety and durability resulting in a useful life expectancy equal to that of the standard Portland cement concrete walks. (Ord. 2007-06, 8-14-2007)

7-1-5-10: DESIGN REQUIREMENTS FOR BUS BAYS AND MEDIAN CUTS:

A. Bus Bays:

1. Additional right of way may be required for bus bays on arterial and collector streets at locations recommended by the busing authority and approved by the village public works director. The width of the additional right of way will be whatever is necessary to provide ten feet (10') from face of the curb along the bus bay. (Dedication of right of way is required as a condition of approval for subdivisions, SU zonings and shopping center site plans.) Bus bay design must provide for conveyance of nuisance drainage flow by valley gutter or other approved means.

B. Median Cuts:

1. On all streets with medians, the allowable minimum distance between the ends of adjacent median cut is three hundred feet (300'). Since median cuts vary from sixty feet (60') to ninety six feet (96'), the allowable minimum centerline to centerline spacing of median cuts varies from three hundred sixty feet (360') to three hundred ninety six feet (396'). At intersections with arterial streets, the allowable minimum distance is normally increased to four hundred feet (400') (centerline to centerline spacing of approximately 500 feet). A median cut will not be approved automatically because it meets the spacing requirements; type of development, internal circulation and traffic operating conditions (existing or projected) on the street will also be considered.

2. The locations and design of median cuts are subject to approval of the New Mexico department of transportation for all streets which are on the state highway system. A majority of the arterial and collector streets are on the state highway system, even though they are not marked as numbered state routes.

3. If a new median cut is desired, the applicant must apply in writing to the village public works director, giving:

- a. Location.
- b. Name and address of the applicant.
- c. Name and address of the party who will pay for the cut.
- d. Proposed use of the property.
- e. A site plan showing buildings and parking.

The village public works director then determines whether the median cut will be approved and notifies the applicant. If approved, construction plans and a quantity estimate will be prepared by the applicant and submitted to the village public works director for approval. After approval, the village public works director will complete the cost estimate by applying current infrastructure rates determined or approved by the village of Angel Fire public works department. The applicant will have the option of having the median cut constructed by a contractor employed by the applicant and approved by the village. An engineering design review fee of five percent (5%) of the construction cost estimate will be required of the applicant. One-fourth (1/4) of the design review fee shall be paid upon initial application and the balance of the fee shall be paid by the applicant prior to issuance of the construction work order. Fees are not refundable.

4. The construction of appropriate left turn lanes, if design permits, must be included with any new median cuts. The costs of new median cuts and turn lanes feeding the property of the applicant are to be borne by the applicant.

5. All median cut designs must address drainage needs and control.

C. Left Turn Lanes:

1. Left turn lanes are required at all existing or proposed median openings which will serve a particular development. The normal minimum length of the turn lane is one hundred feet (100'); however, the length of each turn lane shall be determined by the village public works director. Lengths may be increased for higher volume generators or decreased to meet restricted physical or traffic conditions. (Ord. 2007-06, 8-14-2007)

7-1-5-11: LIGHTING; SIGNAGE:

A. Street Lighting: The policy of the village is that arterial (and selected collector) streets within the core of the village shall be lighted to Illuminating Engineering Society standards for arterial streets. On all other streets, one hundred (100) watt high pressure sodium vapor lights shall be located at all major intersections. If street lighting is determined to be necessary for a development, the developer is required to provide all of the costs related to the street lighting.

B. Traffic Signs: Street name signs are installed by the village. The developer of a subdivision pays a street name sign fee for each intersection at the time of application. All other traffic signs are installed by the developer.

C. Traffic Signals: Traffic signals are designed and installed by or under the direction of the village public works director. If traffic signals are determined to be necessary for a development, the developer may be required to supply all or part of the cost, as determined by the village public works director. (Ord. 2007-06, 8-14-2007)

7-1-5-12: FENCES, WALLS, FOOTINGS AND ENCROACHMENTS:

In multi-family residential and commercial developments, walls, footings, fences, and encroachments are not permitted within the right of way. In general, in new residential subdivisions, walls, footings, fences and encroachments shall not be permitted in the right of way.

In existing, mostly developed subdivisions, walls, footings, fences, and encroachments are discouraged but may be placed within the right of way if approved by the village public works director. Any encroachment must be applied for from the village public works director with an encroachment agreement, approved by the village council and then executed on behalf of the village by the village public works director. This encroachment agreement shall generally follow the village format. The

encroachment agreement provides that the applicant must remove the wall, footing or fence within a specific time (normally 72 hours) upon notification by the village, and makes the applicant responsible for indemnifying the village from any negligent actions by the applicant. There is a fee of twenty five dollars (\$25.00) for recording the contract.

Walls or fences over three feet (3') in height will not be approved within the right of way if the wall or fence will be less than nine feet (9') from face of curb on local streets and less than ten feet (10') from face of curb on arterial and collector streets. All walls or fences over three feet (3') in height and within the right of way must be field checked by the village public works director prior to approval. Any walls or fences which are within the clear sight triangle are restricted to a height of three feet (3') measured from the flow line of the gutter. (Ord. 2007-06, 8-14-2007)

7-1-5-13: BARRICADES AT ENDS OF PAVEMENT:

A barricade may be required at the end of any street pavement within or at the limits of a project regardless of the class of street involved or how soon additional pavement will be placed beyond the current project limits. The only exception will be where the village public works director determines that the unpaved portion of the street beyond the project limits has been and will continue to be open to and used by through traffic. The installation of the barricade must be shown on the plans and included as part of the street improvements. The contractor must notify the village public works director three (3) working days in advance of the placement of any barricade, or completion of paving in the event a barricade is not required, so that the village can install proper warning signs as necessary. (Ord. 2007-06, 8-14-2007)

7-1-5-14: UTILITY DESIGN CONSIDERATIONS:

In general, design of communication, electrical, sewer, television and water utility infrastructure shall conform to applicable titles of this code.

A. Construction Times, Limitations:

1. Hours Of Construction: Work authorized by a permit shall be performed between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., Monday through Friday (except holidays), unless the contractor obtains written consent from the public works director to do the work earlier or later than the stated hours or on a weekend or holiday.

2. Time Work Authorized; Exceptions: No street cut permit authorized under this chapter shall be issued so as to allow a street opening or pavement cut between November 1 and April 30, except in accordance with the following:

a. The public works director may issue a permit for a street opening or pavement cut between November 1 and April 30 if it is determined that special or unforeseen circumstances require the issuance of the permit or if the applicant for the permit is a public utility, as determined by the public works director.

b. If the public works director determines that an extension should be allowed, the applicant may be required to comply with any of the following additional items:

(1) Post an additional sum to pay the cost of cold patching the cut, maintenance of the cut or possible damage to the public way that may occur over the winter; or

(2) Temporary cold patch the excavation; or

(3) Use of other reasonable construction methods which the public works director determines necessary in order to protect the public way until the excavation is permanently closed. In addition, any applicant requesting an extension shall agree to provide a permanent patch or closure for the street cut the following summer when the ground and weather permit the same. (Ord. 2007-06, 8-14-2007)

7-1-6: DRAINAGE DESIGN CRITERIA:

7-1-6-1: GENERAL DESIGN CRITERIA:

A. The primary objective of drainage design is protection of village streets and property while minimizing the possible flood damage to surrounding properties and structures. It should be emphasized that good drainage is one of the most important factors in street design. It preserves the appearance as well as the level of service of the street while minimizing maintenance costs. Water flowing in a roadside ditch shall be diverted away from the street as quickly as possible. In no case shall water travel in a roadside ditch for a distance greater than two thousand feet (2,000') or have a flow greater than ten (10) cubic feet per second with the occurrence of a 50-year, 24-hour frequency storm.

B. All drainage installations shall be designed to permit free, unobstructed passage of debris and silt or provide for their deflection and/or collection at a point upstream that will not create an expensive maintenance problem. Settlement basins shall be provided when a silting problem may exist downstream. Modification of natural channels or transferring runoff from one basin to another is not permitted except where no reasonable alternative exists and where the proposal has been reviewed and approved by the village public works director.

C. A recurring problem on village of Angel Fire streets is ice buildup. Drainage design shall anticipate areas of potential ice buildup.

D. The following criteria must be observed as minimums in street drainage design:

1. Nuisance flows will not be conveyed across arterial or collector streets on the surface by valley gutters or other means.

2. The use of quarter point crown (i.e., high point of crown at mid lane on high side of street) is preferred over the use of full side hill street configuration to prevent sheet flow across pavement surfaces.

3. Transitional pavement surface approaches to intersections must be designed to contain nuisance flows within gutter lines; valley gutters must be provided to accommodate flows across intersection suitably, parallel to the major traffic carrying street. (Ord. 2007-06, 8-14-2007)

7-1-6-2: STORM RUNOFF ESTIMATES:

A. The design engineer shall be responsible for showing all necessary supporting data and criteria on plans, specifications, or in drainage reports with respect to flow capacities, structural soundness, public safety, etc.

B. For purposes of hydrological studies and design, the design engineer shall utilize methods and procedures as outlined by the latest edition of the New Mexico department of transportation department hydrology manual, latest edition. (Ord. 2007-06, 8-14-2007)

7-1-6-3: CULVERTS:

A. Culverts under all streets shall be designed to accommodate a 50-year, 24-hour frequency storm runoff utilizing the maximum available head. The maximum available head shall be determined by the uppermost ponding elevation chosen to prevent flood damage to upstream properties.

B. Culverts shall be located at each natural draw or watercourse as conditions warrant to prevent excessive accumulation of flow in roadside ditches or along the toe of slopes. Draws and watercourses shall be cleared of debris for a distance of one hundred feet (100') upstream from all culvert inlets and designed with provisions accounting for increases in flow velocity and erosion potential.

C. Inverts at the inlet shall be slightly elevated above the normal flow line in steep or natural draws to avoid plugging by debris. Inlets shall not be elevated in those instances where ponding or accumulation of backwater curves would be objectionable (stagnation, irrigation ditches, etc.). The culvert shall slope downward in the direction of natural flow and be designed to be self-cleaning whenever possible. The outlet shall be designed not to discharge on unprotected fills or unstable material or at adverse angles to streams or open channels. Headwall, riprap or other means of protection are required at inlets or outlets where erosion might occur.

D. Velocities of flow in culverts shall be calculated using acceptable design charts or formulas. Where the Manning equation is used, the following "n" values will apply:

TABLE 7-F

<u>Material</u>	<u>Manning Equation "n" Values</u>
Corrugated steel pipe	0.024
Reinforced concrete pipe	0.013
Concrete	0.013 to 0.020
Asphalt	0.016

E. Minimum diameter for round pipe shall be eighteen inches (18"). The minimum rise for elliptical or arch pipes shall be twelve inches (12"). All pipes shall have end sections placed on the inlet and outlet end of the pipe.

F. When a battery of pipes is used, a clear spacing of one-half ($1\frac{1}{2}$) the pipe diameter (1 foot minimum, 4 foot maximum) must be provided between the pipe end sections. Minimum and maximum cover, pipe metal gauge, and strength classification shall be as specified by the manufacturer.

G. Cleanout access shall be provided at least every two hundred feet (200') for pipes twenty four inches (24") in diameter or less and at least every four hundred feet (400') for larger pipes. Cleanout access shall also be provided at each angle point and at each change in grade.

H. Inlets and other facilities draining the street surface shall accommodate the 50-year, 24-hour frequency storm runoff. All streets shall remain free of ponding during the 50-year, 24-hour frequency storm. (Ord. 2007-06, 8-14-2007)

7-1-6-4: INLET STRUCTURES:

A. Curb openings with protection bars are preferred.

B. Drainage grates shall have openings narrow enough and short enough to ensure that bicycle tires will not drop into the grates. (Ord. 2007-06, 8-14-2007)

7-1-6-5: DETENTION PONDS:

A. All detention ponds shall be designed to hold the 100-year, 24-hour frequency storm runoff.

B. All ponds shall have a designated overflow spillway. The overflow spillway shall, as a minimum, be capable of safely discharging the peak runoff entering the facility from a 100-year, 24-hour frequency design storm.

C. All water containment structures, which have water open to the air, shall empty within seventy two (72) hours either through percolation into the soil or through outlet structures designed to ensure a controlled release of water that is not in excess of the flows predevelopment.

D. Ponding areas used in drainage facilities shall be landscaped. At a minimum, the landscaping shall consist of sod or other vegetation for the slopes and of a rock lined bottom. (Ord. 2007-06, 8-14-2007)

7-1-6-6: OPEN CHANNELS AND DITCHES:

A. Channels and ditches shall be designed to avoid roadside safety hazards. The minimum flow line slope shall be 0.75 percent. The maximum permissible velocity should prevent undue scouring of the finer materials silting downstream and in no case should exceed five feet (5') per second.

B. Appropriate erosion control devices such as riprap, gabions, seeding and mulch, asphalt and concrete must be provided as a lining to all channels and ditches specifically designated for the purpose of conveying storm water runoff. (Ord. 2007-06, 8-14-2007)

7-1-6-7: DIP SECTIONS:

A. Arterial, collector and sole access streets to subdivisions may not employ at grade or dip section crossings of arroyos and other natural drainageways. Channel crossings structures shall be provided on all arterial and collector streets to safely pass the 50-year, 24-hour frequency storm.

B. Streets other than arterial, collector and sole access streets to major subdivisions may cross major arroyos and other watercourses by means of a dip section or overflow section, provided that depth times velocity (with velocity calculated as the average velocity measured in feet per second and depth measured in feet at the upstream edge of the roadway including sidewalk, if applicable) does not exceed 6.5 for that portion of the 10-year design storm runoff crossing the street. However, the depth of flow shall not be greater than 0.67 feet for urban or rural streets.

C. Where feasible, temporary crossings shall be designed so they may be incorporated into the future permanent crossing structure and so that they meet street design standards established by the village public works director.

If dip sections are permitted, vertical alignment must satisfy the requirements given for sight distances considering the design speed of the street in question.

D. Special design provisions for protection of the roadway may be required by the village public works director. (Ord. 2007-06, 8-14-2007)

7-1-6-8: SUBSURFACE DRAINAGE:

A. Subgrades subject to poor drainage, underground seepage or a high water table shall be adequately drained for roadbed stabilization. Drains shall be installed to prevent the high ground water level from coming within four (4) vertical feet of the bottom of the roadway pavement. Perforated pipe shall be used to carry away collected water. French drains that contain no pipe are unacceptable. (Ord. 2007-06, 8-14-2007)

7-1-6-9: STORM WATER QUALITY PROTECTION:

A. Construction Phase Storm Water Quality Protection: For all construction, development and redevelopment projects with land disturbances equal to or greater than one acre, including sites which disturb less than one acre but are part of a larger common plan of development, a storm water pollution prevention plan in accordance with EPA and NPDES phase II regulations for construction site storm water runoff control and certification that a notice of intent has been submitted to the EPA shall be submitted to the village public works director, prior to construction. This requirement is in addition to any other provisions of this chapter that may apply.

B. Storm Water Pollution Prevention Plan: The storm water pollution prevention plan shall outline the BMPs to be undertaken by the operator/owner of the project storm water quality during the construction phase of the project. These BMPs shall be maintained by the owner of the property. Inspection of these BMPs shall be made at a minimum once a week by the owner, and a log of this inspection shall be kept on site for review by the village public works director. The village shall also inspect these BMPs on a periodic basis. These BMPs shall be subject to the approval of the village public works director.

C. Postconstruction Storm Water Quality Protection: For all development and redevelopment projects with land disturbances equal to or greater than one acre, including sites which disturb less than one acre but are part of a larger common plan of development, that discharge into the village's storm drainage system, within the urbanized area of the village, postconstruction water quality BMPs are required. This requirement is in addition to any other requirements that may apply. These BMPs shall be subject to the approval of the village public works director.

D. Maintenance Of Facilities: Maintenance of storm water quality control facilities is the responsibility of the property owner up to the point where storm water enters public facilities. (Ord. 2007-06, 8-14-2007)

7-1-7: VIOLATIONS; PENALTIES:

A. It is unlawful to erect, construct, reconstruct, alter or use any structure or to use any land in violation of this chapter.

B. Any person violating any portion of these regulations is guilty of a misdemeanor and, upon receiving conviction thereof, shall be subject to penalty as provided in this code for each offense. Each day during which such illegal construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense.

C. In addition or as an alternative to such fine and/or imprisonment, the village may seek other remedies provided in law or equity including, but not limited to, damages, injunction, mandamus or abatement. (Ord. 2007-06, 8-14-2007)

CHAPTER 2

RIGHT OF WAY ENCROACHMENTS

SECTION:

7-2-1: Purpose

7-2-2: Definitions

7-2-3: Permit And Compliance Required

7-2-4: Security Deposits

7-2-5: Utility Installation Requirements

7-2-6: Restoration Procedures

7-2-7: Traffic Control

7-2-8: Optional Water Meter Installation For New Construction

7-2-9: Violation; Penalties

7-2-1: PURPOSE:

The purpose of this chapter is to define policies and procedures that will ensure that all trenching, excavating, boring or any other type of encroachment done in, under or over Angel Fire rights of way is done in a safe manner, and that once the encroachment is completed, ensures that the right of way is reconstructed to village specifications. (Ord. 2002-01, 1-17-2002)

7-2-2: DEFINITIONS:

CONSTRUCTION: New construction, reconstruction, alteration, excavation, boring, sidewalks, curb and gutter, or work of any kind within the public way which results in the physical alteration of the public right of way.

CONTRACTOR: A person, partnership, or corporation who is duly registered as a professional engineer or general contractor according to the New Mexico statutes, who is hired by the landowner, developer, or utility company and is empowered to act as his agent.

DRIVEWAY: A private access road used by persons residing, employed, or otherwise using or visiting the location at which said driveway is located and enters a public right of way.

EASEMENT: An acquired or granted right from a property owner or developer for specific use by the general public, a corporation or certain persons.

ENCROACHMENT PERMIT: A permit issued to a private party, corporation, or utility company for the purpose of excavating a trench, pit, or boring under or within a village right of way for the installation of utility lines, conduits or drainage structures.

FLOW LINE: The transition point between the gutter and the face of the curb. Where no curb exists, the "flow line" will be considered the edge of the outside traveled lane.

GRADE: The rate or percent of change in slope, either ascending or descending, from or along the roadway. It is measured along the centerline of the roadway.

GRAVELED ROAD: A roadway that is constructed with compacted subgrade and base course.

INSPECTOR: The authorized representative of the village public works department assigned to make detailed inspections for contract performances, standards and contract compliance.

PAVED ROAD: A roadway that is constructed with compacted subgrade, base course, and asphalt or chip seal.

RIGHT OF WAY: Land area, property or interest therein, usually a strip, acquired for or devoted to transportation and/or for utility purposes which are acquired by the village, county, state, or federal government for public use.

SECURITY DEPOSIT: A security bond, letter of credit, or some other instrument of financial guarantee of infrastructure improvements.

SUBSTANTIAL COMPLETION: The time when the work has progressed to the point where it is sufficiently complete so that it, or a specified part, can be utilized for the purpose for which it is intended.

UNIMPROVED ROAD: A right of way which is unimproved, does not meet village roadway standards and has not been accepted for maintenance by the village.

UTILITY LINE: May include water, wastewater, natural gas, propane gas, electricity, telephone, television cable, or fiber optic lines.

VILLAGE: The village of Angel Fire, New Mexico, a New Mexico municipal corporation. (Ord. 2002-01, 1-17-2002)

7-2-3: PERMIT AND COMPLIANCE REQUIRED:

A. Permit And Compliance Required: It shall be unlawful for any person, other than an officer or employee of the village in the course of his employment, to make, cause or permit any construction in, on, under or within a village right of way unless such person shall have first obtained an encroachment permit from the village public works department and unless such construction is performed in conformity with the permits and the terms and provisions of this chapter. Encroachment permits are required for, but not limited to, the following types of construction activities:

1. Utility installation.
2. Driveways.
3. Parking pads or structures contiguous to the right of way.
4. Drainage structures.

B. Penalty: Any work done in a village right of way or easement without an approved encroachment permit will be subject to the provisions of section 7-2-9 of this chapter.

C. Emergency Exemptions: The electric power company and the telephone company holding franchise agreements with the village are exempted from this provision in emergency situations where public health, safety, or welfare is at risk. (Ord. 2002-01, 1-17-2002)

7-2-4: SECURITY DEPOSITS:

A. Types Of Deposits: In addition to a permit fee, the applicant shall make a security deposit sufficient to ensure that the roadway is repaired to preconstruction condition. Security deposits may be made by irrevocable letter of credit, performance bond, cash deposit, cashier's check, or other acceptable security approved by the finance department and in the amount determined by the village fee schedule. Subsection C of this section shall be used to determine the amount to be deposited with the village prior to the issuance of a development permit, building permit or encroachment permit.

B. Deposit Hold Time: The period of time that the village will hold the security deposit will be a function of the type of road upon which the construction was done.

1. Paved Road: The security deposit will be held for twelve (12) months from the date of substantial completion of work covered by the encroachment permit. Paved roadway work also includes curb and gutter, sidewalks, driveway aprons, and valve collars.

2. Gravel Road: The security deposit will be held for six (6) months from the date of substantial completion of work covered by the encroachment permit.

3. Unimproved Road And/Or Easements: The security deposit will be held for three (3) months from the date of substantial completion.

C. Terms Of Security Deposit:

1. Public Utilities: Any public utility operating within the village may, at its option, elect to make a one time performance deposit to apply to all utility installations within the village and submit a letter of performance on road restoration in accordance with the provisions of this chapter that is acceptable to the village administrator.

2. Refund Of Deposits: The public works director shall be contacted to inspect the right of way restoration work prior to work beginning. At the end of the deposit hold time, a final inspection will be performed by the public works director to determine that the quality of the work is still acceptable. He will then authorize the refund of the security deposit unless the work has not been completed to village specifications. If the contractor completes all construction activities without call for appropriate inspections, the public works director may order the security deposit be held for an additional period of time to determine acceptability of the work performed.

3. Deficiency Of Deposit Demand: If, after issuance of a right of way encroachment permit, a deposit is determined to be less than sufficient to pay all restoration costs, the contractor shall pay the village an amount equal to the deficiency as determined by reference to the village fee schedule.

4. Failure To Perform: If the contractor fails or refuses to complete or correct any deficiencies noted by the village, the village may initiate legal action to recover the amount of money necessary to complete the restoration work. Until the restoration deficiencies are corrected or monies to finish all restoration are paid, no subsequent or additional permits shall be issued to the contractor. The remedies herein are in the alternative and are not exclusive.

D. Deposit Formulas: The security deposit for all encroachment work done in village rights of way or easements will be set by village resolution and will be based on type of construction.

1. Paved roads: Cubic foot of excavated materials.
2. Gravel roads: Cubic foot of excavated materials.
3. Unimproved roads and utility easements: Cubic foot of excavated materials.
4. Curb and gutter: Linear foot.
5. Sidewalks, driveway aprons, landscaping: Square yard.
6. Right of way or other major control monuments: Actual cost by licensed surveyor.

E. Exemptions From Provisions: The electric power company and the telephone company holding franchise agreements with the village are exempt from this section where the franchise agreements have existing provisions to guarantee work performed in the village right of way. (Ord. 2002-01, 1-17-2002)

7-2-5: UTILITY INSTALLATION REQUIREMENTS:

Utility installations are to be coordinated among each utility company to ensure that roadway surface penetrations are minimized. When a first penetration is required for a given right of way segment, all utilities able to use that penetration for current or subsequent utility requirements shall do so, thereby preventing the need for future penetrations in that right of way segment.

A. The village requires that all utility lines must be located prior to any excavation or boring as per New Mexico Statutes Annotated chapter 63, article 14.

B. All utility installations must be performed by a licensed contractor and installed according to federal, state and local codes.

C. The clustering of electric meters is prohibited within the village rights of way or in single-family residential areas. "Clustering" is defined as three (3) or more electric meters either individually installed or ganged. One duplex or 2-gang electric meter pedestal is acceptable.

D. Contractors responsible for construction activities necessitating initial right of way encroachment shall cause that required coordination and subsequent utility installations be executed.

E. The director of the department of public works shall review and approve coordinated utility installation plans required by this chapter. (Ord. 2002-01, 1-17-2002)

F. Telephone and television cables laid in village rights of way shall be buried a minimum of thirty inches (30") below the ground where said wires are proposed to be located. (Ord. 2006-02, 1-19-2006)

7-2-6: RESTORATION PROCEDURES:

All restoration of permitted right of way or easement encroachments shall be done in accordance with the following guidelines:

A. Excavated material may be replaced in the trench so long as it does not contain any vegetative material and the moisture content is sufficient and not excessive so as to obtain optimum compaction. Backfill must be in lifts of no more than eight inches (8") to twelve inches (12").

B. In all paved roads, the subgrade must be compacted in lifts of no more than eight inches (8") to twelve inches (12"). The last six inches (6") of fill must be compacted base course, and the final six inches (6") shall be asphalt or concrete of an approved mix design.

C. In all improved gravel roads, the subgrade must be compacted in no more than eight inch (8") to twelve inch (12") lifts, and the last six inches (6") must be compacted base course.

D. All material excavated from the encroachment and not replaced in the trench must be removed from the site so as not to leave any nonbase course, asphalt, or concrete material on top of the roadway.

E. Final grade and smoothness shall be consistent with village road standards and be approved by the department of public works inspection. (Ord. 2002-01, 1-17-2002)

7-2-7: TRAFFIC CONTROL:

Traffic control shall be the responsibility of the contractor performing the work and shall provide for the safety of the traveling public and work site personnel. One lane of traffic shall remain open at all times. In the event that road closure is absolutely necessary, twenty four (24) hour advance notice shall be given to the public works department, police department, and fire and EMS departments. (Ord. 2002-01, 1-17-2002)

7-2-8: OPTIONAL WATER METER INSTALLATION FOR NEW CONSTRUCTION:

Requirements for contractors to install their own water meter shall be as follows:

A. General contractors must provide a copy of current license and insurance for each installation before installation can begin.

B. Plumbing contractors must provide a copy of their current license and insurance for each installation before installation can begin.

C. Excavators must provide a copy of their current license and insurance for each installation before excavation can begin.

D. Contractor or Home Owner must request the option to install their own water meter service at the time of the application. The Village of Angel Fire Water Department will provide a meter can and installation instruction upon request. A deposit of five hundred dollars (\$500.00) will be required. The Utility Billing Division will hold deposit until all inspections are completed and approved. In the event that the meter can is backfilled prior to inspection by the Village of Angel Fire Water Department, deposit will be held for a period of one year after the date of permanent certificate of occupancy.

E. Warranty; Contract shall warranty all work associated with meter installation for one year, from the date of final inspection of installation and back fill/compaction,

F. Contractor is responsible for utility locate call.

1. General contractor is responsible for any utilities hit or broken.

- 2. If a water line is broken, the general contractor will be assessed the cost of repair and cost of water loss.
- G. The use of wet taps is prohibited.
- H. Galvanized pipe and fittings are prohibited.

I. Installation must be inspected by the Angel Fire Water Department prior to backfill and compaction. The Village of Angel Fire Water Department has two (2) working days from the time of the request is called in to inspect. Inspections will be performed Monday through Friday between the hours of seven thirty o'clock (7:30) A.M. and three o'clock (3:00) P.M. There will be no charge for the initial installation inspection or Back fill inspection. There will be an additional fee of two hundred fifty dollars (\$250.00) for each reinspection. These fees are nonrefundable. Water meter will be installed on the meter can by Water Department personnel once all the inspections are completed and approved. (Ord. 2004-06, 7-15-2004, eff. 7-21-2004; amd. Ord. 2022-06, 4-26-2022)

7-2-9: VIOLATION; PENALTIES:

Any person, firm or corporation violating any portion of this chapter is guilty of a misdemeanor and, upon receiving a conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code for each offense. Each day during which such illegal construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense. In addition, or as an alternative to such fine and/or imprisonment, the village may seek other remedies provided in law or equity including, but not limited to, damages, injunctions, mandamus, or abatement. (Ord. 2002-01, 1-17-2002; amd. 2003 Code; Ord. 2004-06, 7-15-2004, eff. 7-21-2004)

CHAPTER 3

WATER SYSTEM REGULATIONS

SECTION:

- 7-3-1: Application Of Provisions**
- 7-3-2: Connection To Public Water System; Use Of Private Wells**
- 7-3-3: Deposits Required**
- 7-3-4: Metered Water Required; Separate Meters**
- 7-3-5: Water Rates And Charges Established**
- 7-3-6: Bills For Service; Delinquencies**
- 7-3-7: Repairs To Service Pipes And Plumbing**
- 7-3-8: Damage To Water System**
- 7-3-9: Diversion Of Water**
- 7-3-10: Water Conservation**

7-3-1: APPLICATION OF PROVISIONS:

This chapter is applicable to all general metered service. Service will be furnished in accordance with the stipulations of this chapter and in accordance with village ordinances, and this applies to all customers located within the village, including Monte Verde V Subdivision. (Ord. 2011-02, 1-11-2011)

7-3-2: CONNECTION TO PUBLIC WATER SYSTEM; USE OF PRIVATE WELLS:

A. Authority; Purpose: This section is adopted pursuant to the authority of the village granted in chapter 3, articles 27 and 53 of the New Mexico Statutes Annotated

B. Connection To Public System And Compliance Required: Upon completion of the village water system line installation, designed and engineered to serve a parcel of land within the village, the property owner of such parcel of land who develops the parcel for residential or commercial purposes shall connect to the system within six (6) months of such completion. Connections must comply with all applicable rules and regulations of the village municipal water utility.

C. Use Of Existing Private Wells:

1. Property Connecting To Public System: A property owner with an existing private well on a developed parcel of land who connects to the village municipal water system may continue to utilize an existing private well for watering outdoor landscaping. Private wells shall not be connected to the village municipal water system. (Ord. 2013-07, 8-13-2013)

D. Penalties: The penalties for any violation of this section shall be as provided in section 1-4-1 of this code. Each day that such violation continues to exist shall be deemed a separate violation. (Ord. 2011-02, 1-11-2011)

1. NMSA §§ 3-27-4, 3-53-1, 3-53-2.1 to operate a water service utility, to assess reasonable rates and charges for water services provided by the utility, to regulate the use of wells, and to preserve the health, safety, and welfare of the village and the quality of the water utility service to the village for the benefit of the village community.

7-3-3: DEPOSITS REQUIRED:

The following deposits shall be paid by the applicant for water and/or sewer service:

- A. Owner occupied residential property shall be fifty dollars (\$50.00) upon showing proof of ownership.
- B. Nonowner occupied residential and commercial property shall be one hundred dollars (\$100.00). (Ord. 2011-02, 1-11-2011)

Notes

1. See chapter 4 of this title.1 at the time of application for service, for the purpose of a guarantee of payment of accounts and damages to service connections or meters:

7-3-4: METERED WATER REQUIRED; SEPARATE METERS:

The water supply system shall be operated on a completely metered basis. Every separate building shall have a separate connection to the water facilities of the village, and a separate meter shall be used for each such building. A "building", for the purpose of this chapter, is defined as:

- A. Single-family residential structures, including mobile homes used for residential purposes. A residential structure includes those ancillary structures immediately, normally and typically surrounding a single-family residential structure (i.e., garage, storage shed, etc.).
- B. Business or commercial structure. (Ord. 2011-02, 1-11-2011)

7-3-5: WATER RATES AND CHARGES ESTABLISHED:

A. General Metered Service:

1. Monthly Minimum Charge: The monthly minimum charges for within and outside village limits will be established by resolution.
2. Monthly Quantity Charge: The monthly quantity charge for within and outside village limits will be established by resolution.

B. Meter Installation Charges:

1. Each customer requesting installation of metered service at his premises shall pay a charge in connection with installation of the water meter to be determined by resolution.
2. The installation charges for all meters are based on the existence of a service line at the customer's property line. In the case where the property owner and/or his designee has destroyed the service line locator wire, or in cases where the service line has not been extended to the property line, the customer will pay for the additional cost to extend a new service line from the main water line to the property line. This additional cost will include the cost of materials, labor, equipment, road restoration and any other related costs.
3. Because of the difficulties associated with installing water meters during winter conditions, water meters will be installed, weather permitting. Wet taps relative to adverse winter conditions will not be done after November 1. However, applications will be accepted but not processed until April 15. Upon acceptance the installation will be scheduled as per the application date.

C. Fire Suppression Systems: The customer shall pay for the meter installation as described under subsection B of this section. No monthly fees will be charged for fire suppression systems unless water usage occurs.

D. Disconnect And Reconnect Charges:

1. Disconnect Charge:
 - a. If a customer makes application to the village to disconnect or discontinue water service, or the customer has failed to comply with the provisions pertaining to payment of bills and the due dates, the village is authorized to charge a fifty dollar (\$50.00) service charge to disconnect water service at the meter, if such disconnect occurs Monday through Friday, eight o'clock (8:00) A.M. to five o'clock (5:00) P.M.
 - b. In the event service is not disconnected at the meter, the fifty dollar (\$50.00) fee shall be refundable to the customer making application to disconnect service.
2. Reconnect Charge:
 - a. If a customer makes application to the village to restore water service previously disconnected at the same premises, the village is authorized to charge a fifty dollar (\$50.00) service fee to reconnect water service at the meter, if

such reconnection occurs Monday through Friday, eight o'clock (8:00) A.M. to five o'clock (5:00) P.M.

b. In the event service is not reconnected at the meter, the fifty dollar (\$50.00) fee shall be refunded to the customer making application to reconnect service.

c. In the case of customer requested connections, no reconnections will be performed without the homeowner or his designee being present.

3. Shutoff Of Water; Discontinuance Of Service For Nonpayment Of Charges:

a. The village may cause water service to be disconnected and may discontinue service to the service unit if any charge provided herein remains unpaid thirty (30) days after the date of mailing the monthly bill. In no case shall service to a customer who has not paid charges and penalties due be continued beyond sixty (60) days after the date on which the original unpaid bill was mailed unless such continuance is approved in writing by the village. When shut off, water shall not be turned on again except upon the full payment of the following arrearages, fees, penalties, interest and deposits:

- (1) All water and/or sewer charges then due and owing, including all applicable taxes, interest and late fees.
- (2) All penalties, diversion, repair, or damage charges.
- (3) A disconnection fee of fifty dollars (\$50.00).
- (4) A reconnection fee of fifty dollars (\$50.00).

b. Customer requests for disconnect or reconnection of service shall be performed Monday through Friday, eight o'clock (8:00) A.M. to five o'clock (5:00) P.M., for a fee of fifty dollars (\$50.00) per occurrence. Requests for disconnect or reconnection of service made outside of those times, will be assessed a fee of seventy five dollars (\$75.00). No reconnects or disconnects will be performed on national holidays or between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M., without the approval of the administrator or his designee.

4. Unauthorized Reconnection Of Service:

a. In the event that any owner shall succeed in connecting service after said service was disconnected for nonpayment, upon discovery of such event, a charge shall be rendered to the owner based upon a fair estimation of the water used and an additional charge of one hundred dollars (\$100.00). Failure of such owner to pay such charges shall result in termination of service.

b. The village shall have the right to take such steps as are necessary to prevent the connection of service, including going upon the premises, where such connection is occurring and taking whatever steps are necessary to terminate such connection.

c. The provisions of this subsection are intended to afford an additional method of enforcing payment of charges for water service furnished by the village permitted by law including New Mexico Statutes Annotated section 3-23-6 (lien against property served). (Ord. 2011-02, 1-11-2011)

E. Water Availability Fee:

1. Monthly Fee; Exemption: Each person or entity having water service to his lot, tract, or parcel shall pay a monthly water availability fee established by resolution. If a person or entity has more than one lot, tract or parcel, the person or entity shall pay the water availability fee for each lot, tract, or parcel. No charge shall be made on any lot, tract, or parcel where there is general metered service being billed at the lot, tract, or parcel. (Ord. 2013-07, 8-13-2013)

2. Rendition Of Bill: The bill for the water availability fee shall be billed quarterly or semiannually in arrears. (Ord. 2011-02, 1-11-2011)

3. Annual Rate Adjustment: Effective each year on July 1, water rates will be adjusted the amount indicated by the CPI report, water and sewerage maintenance, for the end of the previous calendar year. (Ord. 2013-07, 8-13-2013)

F. Returned Check Fee: All returned checks will result in an additional service charge of forty dollars (\$40.00) per returned check to be due immediately.

G. Surcharge:

1. Purpose; Surcharge Authorized: To provide money for the payment of debt service on the bonds and to pay the cost of collection and administration of the water surcharge, a water surcharge shall be established annually by the village administration in an amount sufficient to pay one hundred ten percent (110%) of the debt service coming due on the bonds in the succeeding fiscal year based on the water usage and collections in the village for the preceding fiscal year.

2. Amount Of Surcharge:

a. The precise amount of the water surcharge shall be established annually in July of each year by the village administration and shall be included on the August statements sent each year. The precise amount of the water surcharge will be established as an administrative function by the village administration and shall not require approval by the village council.

b. The precise amount of the water surcharge will vary from year to year so that sufficient amounts can be collected to pay all debt service on the bonds coming due in each fiscal year. (Ord. 2011-02, 1-11-2011)

c. The water surcharge shall be based on consumption for commercial, residential and multi-family users computed utilizing the monthly minimum water meter gallon allowance or actual consumption, whichever is higher. For water availability users, to include fire protection, the water surcharge shall be based on a presumed consumption of four thousand (4,000) gallons per month (the presumed consumption may be adjusted in the future by the village administration). (Ord. 2013-07, 8-13-2013)

3. **Surcharges Billed:** The water surcharge will be billed as a separate item on the regular water and sewer utility statements sent to users of the village water and sewer system.

4. **Lien To Secure Payment:** Payment of the water surcharge due shall be secured by a lien upon such premises to which the water service was provided or was made available. The village shall be authorized to file a lien against real property which has received water or had water service available and on which the water surcharge is delinquent. The lien is subject to foreclosure in order to satisfy the account, costs incurred and attorney fees.

5. **Disposition Of Revenues:** The proceeds derived from the water surcharge shall be used solely for the purpose of paying debt service on the bonds and to pay costs to the village of collecting and administering the water surcharge, such costs not to exceed five percent (5%) of the total collections of the water surcharge in the preceding fiscal year.

6. **Excess Revenues:** Any amounts in excess of the debt service and costs for the preceding fiscal year shall be taken into account by the village administration in establishing the precise amount of the water surcharge required to make the next two (2) succeeding payments on the bonds.

7. **Application Of Other Provisions:** All provisions of the village waterrate ordinance, as it may be amended in the future, governing imposition, collection and enforcement of water system charges, are hereby incorporated in this section and shall be applicable to imposition, collection and enforcement of the water surcharge to the extent consistent with this section. (Ord. 2011-02, 1-11-2011)

H. Adjustment In Rates And Charges:

1. **Annual Rate Adjustment:** Effective each year on July 1, water rates will be adjusted the amount indicated on the CPI report for the end of the previous calendar year. The next CPI adjustment will become effective on July 1, 2003. (Ord. 2013-08, 10-1-2013)

2. **Tax Adjustments:** Billings under this schedule may be increased by an amount equal to the sum of the taxes payable under the gross receipts and compensating tax act ¹

Notes

- ¹ 1. NMSA § 7-9-1 et seq.¹ and of all other taxes, fees or charges (exclusive of ad valorem, state and federal income taxes) payable by the utility and levied or assessed by any governmental authority on the public utility service rendered, or on the right or privilege of rendering the service, or on any object or event incidental to the rendition of the service. (Ord. 2011-02, 1-11-2011)

7-3-6: BILLS FOR SERVICE; DELINQUENCIES:

A. **Payment Due:** All bills are net and payable within twenty (20) days from the date of the bill.

B. **Penalty:** The village shall impose a monthly penalty assessment of one and one-fourth percent (1.25%) on the twenty first day following each monthly billing for those accounts that are not paid in full.

C. **Lien:**

1. **Lien To Secure Payment; Foreclosure:** Payment of the charges due for water service shall be secured by a lien upon such premises to which the services were provided. The village shall be authorized to file a lien against real property which has received water services and on which the charges are delinquent. This lien is subject to foreclosure in order to satisfy the account, costs incurred and attorney fees.

2. **Notice Of Lien:** The village shall send a thirty (30) day notice of intent to file a lien containing the following information:

- The name of the owner, if known, of the parcel of real estate being assessed.
- A description of the parcel of real estate being assessed.
- The amount assessed against each parcel of real estate.

3. **Appeals:** Any persons aggrieved by the decision of the village may submit written petition for appeal. Such petition for appeal shall:

- Be submitted to the office of the finance director within thirty (30) days of the date of lien notice.
- Set forth that such proceedings or assessments were in error, in whole or in part, specifying the grounds of the appeal. (Ord. 2011-02, 1-11-2011)

7-3-7: REPAIRS TO SERVICE PIPES AND PLUMBING:

All repairs for service pipes and plumbing systems of buildings shall be made by and at the expense of the owners of the premises served. The village may, in case of an emergency, repair any service pipes, and if this is done, the cost of such repair work shall be repaid to the village by the owner of the premises served. (Ord. 2011-02, 1-11-2011)

7-3-8: DAMAGE TO WATER SYSTEM:

Any intentional damage occurring to village meters or utility equipment shall be paid for by the user or owner of the property upon which damages occur, including the cost of labor, parts and materials. No utility service shall be reconnected until said charges are paid in full to the village. (Ord. 2011-02, 1-11-2011)

7-3-9: DIVERSION OF WATER:

A. Diversion Prohibited: Water service under this schedule shall not be resold or shared with others.

B. Charges For Diverted Water Estimated: In the event that any owner shall succeed in diverting water from the village water system without paying therefor, upon discovery of such event, a charge shall be rendered to such owner based upon a fair estimation of the water diverted. A failure of such owner to pay such charges shall result in termination of service.

C. Enforcement: The village shall have the right to take such steps as are necessary to prevent the diversion of water including going upon the premises where such diversion is occurring and taking whatever steps are necessary to terminate such diversion. (Ord. 2011-02, 1-11-2011)

7-3-10: WATER CONSERVATION:

A. Purpose: The purpose of this section is to ensure that the village water system always has a sufficient volume of water to meet requirements for fire protection and other commercial and domestic water needs for the public health, safety, and welfare.

B. Definitions:

CLEANING OUTDOOR HARD SURFACES: The washing of sidewalks, driveways, filling station aprons, porches and other outdoor surfaces.

DEFECTIVE PLUMBING: The escape of water through defective plumbing, which shall mean the knowing permission for defective plumbing to remain out of repair.

OUTDOOR WATERING: The sprinkling, watering or irrigating of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, flowers or any other vegetation.

C. Emergency Situations:

1. Authority To Proclaim Emergency: Whenever an emergency exists by reason of a shortage of water due to inadequate supply, limited treatment of distribution capacity or failure of equipment or materials, and that the village water system is unable to or will, within thirty (30) days, become unable to supply the full commercial and domestic needs of the users thereof, including adequate fire protection as determined by the water department, the governing body is authorized to restrict or prohibit the use of the water from the village water system by emergency proclamation.

2. Issuance Of Proclamation: Upon the determination that a water shortage emergency exists, the governing body shall issue a proclamation declaring the emergency and setting out an order restricting use of water from the village system. Depending on the severity and duration of the water shortage, restrictions and prohibitions shall be tiered on four (4) levels:

a. Level one, green flag: Water levels are marginally adequate but, without voluntary measures, are anticipated to drop below the critical level.

b. Level two, blue flag:

(1) Two (2) days per week outdoor watering restrictions. Odd street addresses are allowed outdoor watering on Wednesdays and Saturdays; even street addresses are allowed outdoor watering on Thursdays and Sundays. Outdoor watering on designated days shall only be allowed between the hours of six o'clock (6:00) A.M. and ten o'clock (10:00) A.M. and six o'clock (6:00) P.M. and ten o'clock (10:00) P.M.

(2) Planting of new sod or turf is not recommended.

(3) The filling of hot tubs is not recommended.

(4) Water is not allowed to run unattended or to run off property in a wasteful manner.

(5) Cleaning of outdoor hard surfaces (streets, driveways, sidewalks, buildings) is prohibited.

(6) Vehicle washing is discouraged and prohibited for fundraising events.

c. Level three, yellow flag:

(1) One day per week permitted outdoor watering restrictions. Odd street addresses are allowed outdoor watering on Saturdays, and even street addresses are allowed outdoor watering on Sundays. Outdoor watering on designated days shall only be allowed between the hours of six o'clock (6:00) A.M. and ten o'clock (10:00) A.M. and six o'clock (6:00) P.M. and ten o'clock (10:00) P.M.

(2) The planting of all new outdoor landscaping is prohibited.

- (3) The filling of hot tubs is not recommended.
- (4) Water is not allowed to run unattended or to run off property in a wasteful manner.
- (5) Cleaning of outdoor hard surfaces (streets, driveways, sidewalks, buildings) is prohibited.
- (6) Vehicle washing is prohibited.

d. Level four, red flag:

- (1) All outdoor uses of water are prohibited.
- (2) The planting of all new outdoor landscaping is prohibited.
- (3) Residents and visitors are requested to curtail as much indoor water use as possible.
- (4) The filling of uncovered earthen water storage reservoirs and similar facilities is prohibited.

3. Publication And Posting Proclamation:

a. The proclamation required by subsection C1 of this section shall be published in a newspaper of general circulation in the village, or if there is no such newspaper in which the proclamation may be published within twenty four (24) hours after the emergency arises, publication shall be by posting a copy of the proclamation in seven (7) prominent places in the village and publish as soon as possible in a newspaper of general circulation in the village. The emergency shall be in full force and effect upon publication. Substantial compliance with this subsection is sufficient to effect the emergency.

b. Subsequent to initial posting of the proclamation, the specific level of the emergency shall be posted daily in front of the village hall at 3388 Highway 434 by use of a colored flag corresponding to the level of the emergency as described in subsection C2 of this section.

4. Duration Of Emergency: A duly proclaimed emergency shall continue and terms of the proclamation shall be in force until such time as the governing body shall cause to be published a proclamation that the emergency has ended.

D. Nonemergency Conservation Measures:

1. Residential Buildings: All new residential construction, remodeling, and fixture and appliance replacement shall meet the following requirements:

- a. Low flow toilets: One and six-tenths (1.6) gallons/flush or less.
- b. Low flow shower heads: Two and five-tenths (2.5) gallons per minute (gpm) flow or less.
- c. Low flow faucets.
- d. Automatic dishwashers using less than thirteen (13) gallons/cycle or less.
- e. Cutoff valves for showerheads.
- f. Kitchen faucet aerator shutoffs or steam/spray aerators.
- g. Low flow clothes washing machines; no more than forty three (43) gallons in regular cycle, and reduced water level adjustments for reduced loads.

2. Commercial Buildings: All new commercial construction, remodeling, and fixture and appliance replacement have the same requirements as residential where applicable, along with the following requirements:

- a. Public restroom faucets shall be limited to two and five-tenths (2.5) gallons per minute flow or less.
- b. Automatic shutoff valve for public restroom faucets.
- c. Public showers shall be equipped with self-closing valves.
- d. Recirculating lines on hot water lines with over one hundred feet (100') development length between heater and fixture.
- e. Automatic flush valves (flushometers).
- f. Submittal of a water conservation plan for uses other than bathrooms.

3. Defective Plumbing: All defective plumbing shall be repaired and subsequently maintained in good working order.

4. Information To Contractors And Realtors: The information in this subsection will be provided to all contractors and real estate offices for delivery to new owners.

E. Exemptions From Provisions: The provisions of this section shall not apply to those businesses and industries declared by resolution of the village to be necessary for the public health, safety, and welfare.

F. Violation; Penalties:

1. Violation: Any person who, in any manner, directly or indirectly violates or permits others under his supervision, custody or control to violate any term of a duly published proclamation shall be guilty of a misdemeanor. Each separate day

of water use in violation of such proclamation shall constitute a separate offense, and each separate offense and each separate prohibited use on the same day shall constitute a separate offense.

2. Penalties: First violation will receive a warning; second violation will receive a citation with a fine up to, but not more than, twenty five dollars (\$25.00); third and subsequent violations will receive a citation with a fine up to, but not more than, five hundred dollars (\$500.00). (Ord. 2011-02, 1-11-2011)

CHAPTER 4

SEWER SYSTEM REGULATIONS ¹

SECTION:

7-4-1: Connection To Public System; Requirements

7-4-2: Sewer Rates Established

7-4-3: Adjustment In Rates And Charges; Returned Check Fee

7-4-4: Bills For Service; Delinquencies

7-4-5: Shutoff Policy; Discontinuance Of Water And Sewer Service For Unpaid Charges

7-4-6: Repairs To Service Pipes And Plumbing

7-4-7: Damage To Sewer System

7-4-8: Diversion Of Sewage Prohibited

7-4-9: Grease/Sand Traps Requirements

7-4-10: Penalties And Remedies

Notes

¹ 1. See also section 7-3-3 of this title.¹

7-4-1: CONNECTION TO PUBLIC SYSTEM; REQUIREMENTS ¹

A. Connection Required: Upon completion of sewer line installation designed and engineered to serve a specific developed parcel of land within the village, the property owner of such developed parcel of land shall connect to the system within six (6) months of such completion.

B. Exception: The provisions of subsection A of this section are not applicable to any property owner with an existing advanced septic system that meets current village and state codes and requirements and whose existing system would require the utilization of an E/One grinder pump to be connected to a force main sewer line of the municipal sewer utility unless and until such time as the property owner's septic system fails to meet village and/or state codes and requirements or the property owner chooses to connect to the municipal sewer utility. In either case, the costs of conversion to connect to the municipal sewer utility shall be the sole responsibility of the property owner and neither the municipal sewer utility nor the village shall have any financial responsibility for the conversion from the property owner's septic system to connect to the municipal sewer utility.

C. Connection Specifications: Connections must comply with all applicable rules and regulations of the municipal sewer utility.

D. Abandonment Of Private System: Within thirty (30) days after connection to the municipal sewer utility for any parcel of land, its property owner shall abandon any existing septic tank on the parcel of land in accordance with applicable laws, rules and regulations.

E. Penalties: The penalties for any violation of this section shall be as provided in section 1-4-1 of this code. Each day that such violation continues to exist shall be deemed a separate violation. (Ord. 2014-03, 9-14-2014)

Notes

¹ 2. See also section 8-1-3 of this code.²

7-4-2: SEWER RATES ESTABLISHED:

A. Rate No. 1 - Sewer Usage Rates:

1. Applicability: Sewer usage rates are applicable to all sewer customers once they connect onto the sewer line for service and are general metered water customers located within and outside the village.

2. Monthly Minimum Charge: Monthly minimum charges within and outside the village limits will be established by resolution.

3. Monthly Quantity Charge: Monthly quantity charges will be established by resolution. (Ord. 2011-03, 1-11-2011)

B. Rate No. 2 - Sewer Availability Fees:

1. Applicability: Sewer availability fees are applicable to all lots, tracts, and parcels located within the village which have sewer mains passing by the lot, and sewer service can be provided.

2. Monthly Charge: Each person having sewer service available to his lot, tract, or parcel shall pay a sewer availability fee established by resolution. If a person or entity has more than one lot, tract, or parcel, the person or entity shall pay the sewer availability fee for each lot, tract, or parcel. No charge shall be made on any lot, tract or parcel once the person becomes a general metered water customer and is being billed for sewer usage fees (rate no. 1).

3. Rendition Of Bill: The bill for the sewer availability fee shall be for a six (6) month period in advance.

4. Annual Rate Adjustment: Effective each year on July 1, water rates will be adjusted the amount indicated by the CPI report, water and sewerage maintenance, for the end of the previous calendar year. (Ord. 2013-07, 8-13-2013)

C. Rate No. 3 - Sewer Tap Fees:

1. Applicability: Sewer tap fees are applicable to all lots, tracts, and parcels located within the village whose owners desire to hook onto the central sewage system.

2. Responsibilities Of Customers:

a. The customer is responsible for the extension of the sewer service line from the utility's service line stub (which is extended outside of the roadway surface near the property line) to the customer's structure.

b. The customer is responsible for the maintenance of the sewer service line from the main sewer line to the structure.

c. In cases where the property owner and/or his designee has destroyed the service line locator wire, or in cases where the service line has not been extended to the property line, the customer will pay for the additional cost to extend a new service line from the main sewer line to the property line. This additional cost will include the cost of materials, labor, equipment, road restoration and any other related costs.

3. Time Restrictions On Sewer Taps: Because of the difficulties associated with making sewer taps during winter conditions, no sewer taps will be made after November 1 or before April 15. However, applications will be accepted but not processed until April 15. Upon acceptance the installation will be scheduled as per the application date.

4. Multiple-Family, Commercial And Industrial Structures: Since tying into the central system precludes the owner of a multiple-family or a commercial structure from building an individual sanitary sewage disposal system, it is in order that a connection charge or a "tap fee" be made at the time when he connects the building to the central sewage disposal plant.

a. Multiple-Family Structures: To be established by resolution.

b. Commercial, Institutional And Industrial Enterprises: Schedule of water use per day, per month, and applicable sewer tap fees for commercial, institutional, and industrial structures will be established by resolution. (Ord. 2011-03, 1-11-2011)

7-4-3: ADJUSTMENT IN RATES AND CHARGES; RETURNED CHECK FEE:

A. Annual Rate Adjustment: Effective each year on July 1, sewer rates will be adjusted the amount indicated on the CPI report for the end of the previous calendar year. The first CPI adjustment will become effective on July 1, 2001. (Ord. 2013-08, 10-1-2013)

B. Tax Adjustments: Billings under this chapter may be increased by an amount equal to the sum of the taxes payable under the gross receipts and compensating tax act ¹

C. Returned Checks; Service Charge: All returned checks will result in an additional service charge of forty dollars (\$40.00) per returned check to be assessed on the account. (Ord. 2011-03, 1-11-2011)

Notes

¹ 1. NMSA § 7-9-1 et seq. and of all other taxes, fees or charges (exclusive of ad valorem, state and federal income taxes) payable by the utility and levied or assessed by any governmental authority on the public utility service rendered, or on the right or privilege of rendering the service, or on any object or event incidental to the rendition of the service.

7-4-4: BILLS FOR SERVICE; DELINQUENCIES:

A. Payment Due: All bills are net and payable within twenty (20) days from the date of the bill.

B. Penalty: The village shall impose a monthly penalty assessment of one and one-fourth percent (1.25%) on the twenty first day following each monthly billing for those accounts that are not paid in full.

C. Liens:

1. Notice Of Lien: The village shall send a thirty (30) day notice of intent to file a lien containing the following information:

- a. The name of the owner, if known, of the parcel of real estate being assessed.
- b. A description of the parcel of real estate being assessed.
- c. The amount assessed against each parcel of real estate.

2. Appeals: Any persons aggrieved by the decision of the village may submit written petition for appeal. Such petition for appeal shall:

- a. Be submitted to the office of the finance director within thirty (30) days of the date of lien notice.
- b. Set forth that such proceedings or assessments were in error, in whole or in part, specifying the grounds of the appeal. (Ord. 2011-03, 1-11-2011)

7-4-5: SHUTOFF POLICY; DISCONTINUANCE OF WATER AND SEWER SERVICE FOR UNPAID CHARGES:

A. The village may cause water service to be disconnected and may discontinue service to the service unit if any charge provided herein remains unpaid thirty (30) days after the date of mailing the monthly bill. In no case shall service to a customer who has not paid charges and penalties due be continued beyond sixty (60) days after the date on which the original unpaid bill was mailed unless such continuance is approved in writing by the village. When shut off, the water and sewer service shall not be turned on again except upon the full payment of the following arrearages, fees, penalties, interest and deposits:

1. All water and/or sewer charges then due and owing.
2. All penalties, interest, diversion, repair, or damage charges.
3. A disconnection fee of fifty dollars (\$50.00).
4. A reconnection fee of fifty dollars (\$50.00).

B. The provisions of this section are intended to afford an additional method of enforcing payment of charges for water and sewer service furnished by the village permitted by law including New Mexico Statutes Annotated section 3-23-6 (lien against property served). (Ord. 2011-03, 1-11-2011)

7-4-6: REPAIRS TO SERVICE PIPES AND PLUMBING:

All repairs for service pipes and plumbing systems or buildings shall be made by and at the expense of the owners of the premises served. The village may, in case of an emergency, repair any service pipes, and if this is done, the cost of such repair work shall be repaid to the village by the owner of the premises served. (Ord. 2011-03, 1-11-2011)

7-4-7: DAMAGE TO SEWER SYSTEM:

Any intentional damage occurring to village meters or utility equipment shall be paid for by the user or owner of the property upon which damages occur, including the cost of labor, parts and materials. No utility service shall be reconnected until said charges are paid in full to the village. (Ord. 2011-03, 1-11-2011)

7-4-8: DIVERSION OF SEWAGE PROHIBITED:

A. Diversion Prohibited: In the event that any owner shall succeed in diverting sewage from the village sewer system without paying therefor, upon discovery of such event, a charge shall be rendered to such owner based upon a fair estimation of the sewage diverted. A failure of such owner to pay such charges shall result in termination of service.

B. Enforcement: The village shall have the right to take such steps as are necessary to prevent the diversion of sewage, including going upon the premises where such diversion is occurring, and taking whatever steps are necessary to terminate such diversion. (Ord. 2011-03, 1-11-2011)

7-4-9: GREASE/SAND TRAPS REQUIREMENTS:

A. Scope And Purpose: To aid in the prevention of sanitary sewer blockages and adverse impacts to the wastewater treatment facility and receiving stream from discharges and accumulation of sand, fats, oils and grease into the sewer system from industrial or commercial establishments, particularly car wash, auto repair, food preparation and serving facilities.

B. Description: A grease/sand trap is filtering device to remove fats, oil, grease and sand/dirt from sewage prior to discharge to the public sewer. Grease Taps are interceptors that serve as small flotation chambers where fat, grease and oil rise to the water surface and are retained, while the clear water underneath is discharged. Sand Traps are interceptors that contain baffles of chambers that allow sand, mud, grit, and other materials to settle allowing wastewater to move through. The use of the word interceptor is interchangeable with the word trap.

C. Applicability: The following types of facilities will be required to have grease traps: restaurants, food cooking or food preparation businesses using any baking, frying, grilling, sauteing, rotisserie, barbecuing, broiling, boiling, blanching, roasting, toasting or poaching operations, cafeterias, institutional kitchens, schools, hospitals, nursing homes and any other facility that handles fats, oils and grease and which discharges wastewater containing grease into the public sewer system. All such establishments are required to have a properly sized, functioning and maintained grease trap. Sand traps are required at the following establishments: service stations, car washes, vehicle repair and lubrication businesses and any

other facility that handles sand/dirt, fats, oils and grease and which discharges wastewater containing grease into the public sewer system. In some situations both a grease and sand trap may be required.

D. **New Facilities:** Upon the effective date hereof, facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated, where such facility did not previously exist, or any facility which changes ownership or lease which does not have properly sized or operational sand and/or grease trap, shall be required to install, operate and maintain a sand and/or grease trap meeting the requirements of this chapter. Sand and/or Grease traps shall be permitted and installed prior to the issuance of certificate of occupancy.

E. **Existing Facilities:** For the purposes of sizing and installation of grease traps, all food service facilities existing within the town prior to the effective date hereof will be permitted to operate and maintain existing grease traps provided its grease traps are in efficient operating condition. After the effective date hereof the Village may require an existing food service facility to install, operate and maintain a new grease trap that complies with the requirements of this chapter or to modify or repair any noncompliant plumbing or existing trap within one hundred and eighty (180) days of written notification from the Village when any of the following conditions exist;

1. The facility is found to be contributing fats, oils and grease in quantities sufficient to cause line stoppages or necessitate increased maintenance on the public sewer system.
2. The facility does not have a grease trap.
3. The facility has an undersized, irreparable or defective grease trap,
4. Remodeling of the food preparation or kitchen waste plumbing is performed which requires a plumbing permit to be issued.
5. The existing facility is sold or leased or undergoes a change of ownership.
6. The existing facility does not have plumbing connections to a grease trap in compliance with the requirements of this chapter.

F. **Grease Trap Requirements:**

1. **Plumbing Connections:** Grease traps, generally, shall be designed for exterior installation and shall be located in the food service facility's lateral sewer line between all fixtures which may introduce grease into the sewer system and the connection to the public sewer. Such fixtures shall include, but not be limited to sinks, dishwashers, garbage disposals, automatic hood wash units, floor drains in food preparation and storage areas and any other fixture determined to be a potential source of grease. Wastewater from sanitary facilities and other similar fixtures shall not be introduced into the grease trap under any circumstances. Grease traps shall be designed, located and constructed to facilitate easy access and maintenance by the owner and inspection by the Village.

2. **Grease Interior Or Under Sink Traps:** Interior grease traps shall be prohibited for new or remodeled food service facilities, except where, in the determination of the public utilities director, inadequate space is available for installation of an exterior grease trap. If the public utilities director grants approval for installation of an interior or under sink grease trap unit, then such approval shall require written agreement of the owner or lessee to inspect, clean and maintain the unit at least weekly and to skim the grease out of such grease trap and place in a holding container of at least fifty five (55) gallons for pick up by a commercial grease hauler. Grease traps approved for interior installation shall be equipped with a flow control device to limit flow through the unit so as not to exceed the manufacturer's rated capacity in gallons per minute for the unit. The flow control device and the grease trap shall be vented at least six inches (6") above the flood rim level.

3. **Grease Trap Design:**

a. **Access Manholes:** Grease traps will be equipped with an access manhole with a minimum diameter of twenty four inches (24") and shall be provided over each chamber and sanitary tee. Access manholes shall extend at least to finished grade and be designed and installed to prevent inflow or infiltration.

b. **Capacity:** Grease traps shall have sufficient capacity to perform the service for which it is provided. Traps shall be designed for a minimum hydraulic detention time of twenty four (24) minutes at actual peak flow rate or twelve (12) minutes of calculated peak flow rate as predicted by the uniform plumbing code fixture criteria, between the influent and effluent baffles, with twenty percent (20%) of the total volume of the trap allowed for sludge to settle and accumulate. Both the inlet and outlet of the grease trap shall have adequate baffles to prevent short circuiting of waste through the trap. The minimum passive capacity for any grease trap regardless of projected discharge shall be no less than five hundred (500) gallons.

c. **Flow through Rate:** Because it is necessary for fats, oils and grease to cool down to solidify, grease traps shall be designed with a horizontal flow through rate not to exceed 0.25 inch per second. The flow through rate is to be calculated for a given tank with its maximum grease storage and sludge storage volume factored into the calculation.

d. **Approval of Plans:** The owner or permittee of any business required to install a grease trap shall submit a site plan showing the location of the trap, sewer lines and cleanouts, details of the grease trap, lines, manhole and cleanouts, and the formula and calculations used to determine the grease trap capacity.

G. **Grease Traps Installed By The Users:** The food service or other facility covered by this chapter is responsible for the costs of installing, operating, cleaning and maintaining its grease trap.

H. **Inspection, Servicing and Record Keeping:** Inspection, servicing and maintenance is essential for the efficient

operation of grease traps. Grease traps shall be inspected by the user, serviced and emptied of accumulated waste contents as is required at or before the trap capacity reaches seventy five percent (75%) of its design capacity. Servicing frequency is site specific and is dependent on the amount of oil and grease and suspended solids generated at each facility and the size of the grease trap. In no case shall the frequency of cleaning be less than once every sixty (60) days, except for interior or under sink traps which shall be inspected, cleaned, and emptied of grease at least weekly. The user of a grease trap shall maintain a log book of all maintenance and cleaning along with evidence, such as billing and manifests with owner's signature confirming work was done, of grease removal and disposal done in accordance with village, state and federal regulations. The user shall maintain written records of grease trap maintenance and cleaning for a period of three (3) years. All such records will be available on site for inspection by the Village at all times.

I. Grease Trap Pumping and Cleaning: All grease traps shall be cleaned by a properly licensed cleaning and disposal operation. Cleaning shall include the initial complete removal of all contents, including floating materials, wastewater and bottom sludge and scraping solids from the sides, top and baffles and pipes of the trap. No on site aboveground grease storage containers or on site storage of grease outside of the approved grease trap shall be allowed under this chapter.

J. Recycling of Gray Water: The return of gray water back into the grease trap from which the wastes were removed is allowable, provided that grease and solids are not returned to the trap and provided the grease hauler has written permission from the facility to return gray water. The grease hauler shall wait a minimum of twenty (20) minutes to allow the trap waste to separate in the truck tank before attempting to reintroduce the gray water to the interceptor. It shall be the responsibility of each facility to inspect its grease trap during the pumping procedure to ensure that the grease trap is properly cleaned out and that all fittings and fixtures inside the trap are in working order.

K. Commercial Additives, Enzymes, Emulsifiers And Bacteria: The introduction of bleach, emulsifiers, enzymes or any other chemical to the grease trap to reduce, thin or break down grease so that it is flushed or washed out into the public sewer is strictly prohibited. The addition of live bacteria available from commercial sources is conditionally permissible, provided the user first obtains written approval from the Public Utilities Director prior to its use. The user shall submit MSDS sheets and any other applicable information concerning the composition, frequency of use and mode of action of the bacterial additive for the director's consideration.

L. Alternative Grease Removal Devices or Technologies: Alternative grease removal devices and technologies such as automatic grease removal systems shall be subject to written approval by the Public Utilities Director prior to receiving a permit and installation. Approval of the device shall be based on demonstrated, proven removal efficiencies and reliability of operation. The Village may approve these types of devices depending on manufacturers' specifications on a case by case basis.

M. Inspection from the Village: Grease traps will be inspected by representatives of the Public Utilities Department or the Building Inspector as often as necessary to assure compliance with Village ordinances, to determine if proper cleaning and maintenance schedules are being adhered to or to perform sampling of facility's wastewater. (Ord. 2022-05, 4-26-2022)

7-4-10: PENALTIES AND REMEDIES:

A. Penalties; Continuing Violations: Every person convicted of a violation of this chapter shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days, or both, for each violation. Each day this chapter is violated shall constitute a separate offense. The conviction and punishment of any person for a violation shall not excuse or exempt such person from the payment of any fee due or unpaid at the time of such conviction and nothing herein shall prevent a criminal prosecution of any violation of the provisions of this chapter.

B. Remedies Cumulative; Liens: All remedies prescribed or liens created hereunder or under the provisions of the law for collection and enforcement of the fees shall be cumulative and the use of one or more remedies by the town shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter created by the law. The fees authorized by this chapter shall be a lien in favor of the Village upon the real property served and the personal property of the person used in connection with the sewer use which gave rise to the fee and such lien shall be imposed, collected, enforced and paid as provided by the law. No property of any persons shall be exempt from levy and sale on execution issued for the collection of a judgment for any fee imposed by this chapter.

C. Disconnection of Service: For repeated violations of this chapter, the Village may disconnect the violator's water and/or sewer service and refuse to provide water and/or sewer service to the violator until assurances satisfactory to the Village are provided by the violator that such violations shall cease.

D. Business License Revocation: Gross violations of this chapter may constitute the revocation of any business license, which is associated with the discharge privileges. (Ord. 2022-05, 4-26-2022)

CHAPTER 5

OVERSIZED TRANSPORT

SECTION:

7-5-1: Purpose

7-5-2: Definitions

7-5-3: Permit And Compliance

7-5-4: Traffic Control

7-5-1: PURPOSE:

The purpose of this chapter is to define policies and procedures that will ensure that transport of manufactured houses, modular houses, and similar oversized vehicles carried on village roads will be done in a safe manner and will not damage village rights of way. (Ord. 2005-06, 8-18-2005)

7-5-2: DEFINITIONS:

An "oversized vehicle" is any axle vehicle or a trailer that is used to transport oversized equipment, appliances, or prefabricated buildings measuring eight feet six inches (8'6") or more in width and/or sixty feet (60') or more in length. In no case shall the oversized vehicle with cargo exceed sixteen feet (16') in width as measured at the widest point, or exceed eighty (80) unarticulated feet in length, or exceed seventeen feet (17') in height. The maximum axle width allowed shall be sixteen feet (16'). Eave overhangs are excluded from the total width measurement. (Ord. 2005-06, 8-18-2005)

7-5-3: PERMIT AND COMPLIANCE:

A. Required: It shall be unlawful for any person to drive, tow, or pull an oversized vehicle on village rights of way unless such person shall have first obtained a transport permit from the streets and drainage department. Submission of an application does not constitute an approved transport permit. The transport permit fee shall be set by village council resolution.

B. Application: The requirements for securing a transport permit shall include:

1. Description of oversized vehicle including dimensions and total weight including transport vehicle and trailer.
2. Proof of retainer for a New Mexico licensed transport service.
3. Proof of retainer for a vehicle escort service from village limits to final site or delivery destination.
4. ROW damage deposit bond, amount to be set by village council resolution.
5. Specific date and time the oversized vehicle will enter village limits.
6. Copy of proof of New Mexico construction industries division inspections for prefab/modular units from the manufacturer (modular decals).
7. Copy of signed building permit issued by the Angel Fire building division.

C. Terms Of Damage Deposit Bond:

1. Refund Of Deposit: The streets and drainage director shall inspect the route traveled by the oversized vehicle as prescribed in the transport permit prior to and after the oversized vehicle has been delivered to its final site or destination. If any damage is incurred by any part of the right of way, the streets and drainage director shall prepare a damage assessment and withhold the cost of repair from the damage deposit. If no damage is incurred, the damage deposit shall be refunded in its entirety.

2. Deposit Hold Time: The damage deposit may be held up to thirty (30) days after the oversized vehicle is delivered to its final site or destination. If a company transports oversized loads on a regular basis into the village, that company may post an annual surety bond or may provide proof of bonded insurance to the streets and drainage director.

3. Deficiency Of Deposit Demand: If after damage assessment, it is determined by the streets and drainage director that the deposit is less than sufficient to pay all restoration costs, the applicant shall pay the village an amount equal to the deficiency as determined by the streets and drainage director.

4. Failure To Perform: If the applicant fails or refuses to complete or correct any deficiencies noted in the damage assessment, the village may initiate legal action to recover the amount of money necessary to complete the restoration work. The remedies herein are in the alternative and are not exclusive.

D. Penalty: Any oversized vehicle transported over any village right of way without an approved transport permit will be subject to the provisions of section 7-2-9 of this title. In no case shall any tracked vehicle be allowed in the use of transporting an oversized vehicle. (Ord. 2005-06, 8-18-2005)

7-5-4: TRAFFIC CONTROL:

Traffic control shall be the responsibility of the Angel Fire police department and shall be based on the information provided in the transport permit application. Any deviation in the traffic control schedule must be made to the Angel Fire police department seventy two (72) hours prior to the oversized vehicle entering the village limits. Any change of schedule notification of less than seventy two (72) hours shall result in a double transport permit fee being assessed by the streets and drainage department. The transport permit will include a route map and description as provided by the streets and drainage department. In no case shall a required road closure exceed one hour. (Ord. 2005-06, 8-18-2005)

TITLE 8

BUILDING REGULATIONS

CHAPTER 1

BUILDING CODE AND REGULATIONS

SECTION:

8-1-1: Building Codes Adopted

8-1-2: Enforcement Powers And Duties Of Building Official

8-1-3: Liquid Waste Disposal For New Construction

8-1-4: Plumbing Code

8-1-5: Mechanical Code

Notes

- ¹ 1. See section 9-4-2 of this code for property maintenance code.1

8-1-1: BUILDING CODES ADOPTED:

The building or construction of any new buildings and structures within the municipal boundaries of the village, including new construction, additions, alterations, demolition or repairs, shall comply with all the requirements of the 2003 international codes adopted by the state of New Mexico, July 1, 2004, which include:

- A. International building code, including appendix J, grading.
- B. International residential code, including appendix J, existing buildings & structures.
- C. International existing building code.
- D. International energy conservation code.
- E. International property maintenance code ¹

as published by the International Code Council, and with the most current edition of the New Mexico building code as promulgated by construction industries division, general construction bureau, state of New Mexico. As the international codes and the New Mexico building code are, from time to time, amended, such amendments are hereby adopted by reference. One copy each of the international codes and the New Mexico building code adopted herein is available for inspection during the normal and regular business hours at the office of the village building official. (Ord. 2004-10, 11-4-2004)

Notes

- ¹ 1. See also section 9-4-2 of this code.1.

8-1-2: ENFORCEMENT POWERS AND DUTIES OF BUILDING OFFICIAL ¹

It shall be the duty of the building official to examine all applications for building permits and to inspect, at such intervals as he deems appropriate, all ongoing construction within the village in order to ascertain compliance with the building codes and all other applicable ordinances and laws. For this purpose, the building official shall have the power to seek inspection of any property or structure at reasonable hours to determine compliance. In addition, it shall also be the duty of the building official to determine that the structure, or any alteration, addition or repair thereto, complies with the building codes adopted herein before a certificate of occupancy shall be issued for the building or structure. These duties and powers of the building official are in addition to, and shall not be construed to limit, such other duties and powers of the building official as have been assigned by ordinance or other appropriate action of the village council. (Ord. 1990-03, 9-6-1990)

Notes

- ¹ 2. See also subsection 9-3-4C1 of this code.2:

8-1-3: LIQUID WASTE DISPOSAL FOR NEW CONSTRUCTION ¹

No building permit may be issued for any new construction or remodeling which results in either an increase in the quantity or a change in the quality of sewage or wastewater produced until the building official is provided with documentation of proper treatment and disposal of the wastewater produced. Documentation of proper wastewater treatment and disposal shall be:

A. A signed agreement with Angel Fire services corporation, or its successor, to connect to an approved wastewater system; or (Ord. 1994-04, 11-3-1994, eff. 11-15-1994)

B. An approved liquid waste permit issued by the New Mexico environment department; or

C. An intent to install a liquid waste system reviewed and signed by the New Mexico environment department. (Ord. 1996-09, 8-14-1996, eff. 8-20-1996)

Notes

¹ 1. See title 7, chapter 4 of this code for sewer service regulations.¹:

8-1-4: PLUMBING CODE:

The Angel Fire village council hereby adopts the 1997 edition of the uniform plumbing code as adopted by the state of New Mexico and all subsequent editions adopted by the state of New Mexico after this date. (Ord. 2003-10, 9-17-2003)

8-1-5: MECHANICAL CODE:

The Angel Fire village council hereby adopts the 1997 edition of the uniform mechanical code as adopted by the state of New Mexico and all subsequent editions adopted by the state of New Mexico after this date. (Ord. 2003-10, 9-17-2003)

CHAPTER 2

FIRE CODE

SECTION:

8-2-1: Code Adopted; Compliance Required

8-2-2: Definition

8-2-3: Powers And Duties Of Building Official

8-2-4: Existing Structures

8-2-5: Fire Protection Devices And Equipment

8-2-6: Copy Of Provisions

8-2-1: CODE ADOPTED; COMPLIANCE REQUIRED:

The building or construction of any new or existing structures within the municipal boundaries of the village, including new construction, additions, alterations or repairs, shall comply with all the requirements of the 1997 edition of the life safety code as published by the National Fire Protection Association, and said edition is hereby adopted by reference. As the 1997 edition of the life safety code is from time to time amended, such amendments are hereby adopted by reference. (Ord. 1992-01, 3-19-1992; amd. 2003 Code)

8-2-2: DEFINITION:

For the purpose of this chapter, a "life safety hazard that constitutes an imminent threat" means a life threatening condition reasonably determined by the building official pursuant to his powers and duties set forth in this chapter. (Ord. 1992-01, 3-19-1992)

8-2-3: POWERS AND DUTIES OF BUILDING OFFICIAL:

A. It shall be the duty of the building official to examine all applications for building permits and to inspect, at such intervals as he or she deems appropriate, all ongoing construction or existing structures within the municipal boundaries of the village in order ascertain compliance with the 1997 edition of the life safety code, as amended, and all other applicable ordinances and laws.

B. For the purposes set forth in this chapter, the building official shall have the power to seek inspection of any property or structure within the municipal boundaries of the village during regular business hours to determine compliance with the 1997 edition of the life safety code.

C. It shall be the duty of the building official to determine that the structure, or any alteration, addition or repair to the structure, complies with the applicable provisions of the 1997 edition of the life safety code, adopted herein, before a certificate of occupancy is issued for the building or structure. (Ord. 1992-01, 3-19-1992; amd. 2003 Code)

D. These duties and powers of the building official are in addition to, and shall not be construed to limit, such other duties and powers of the building official as have previously been assigned or may in the future be assigned by ordinance or other appropriate action of the village council. (Ord. 1992-01, 3-19-1992)

8-2-4: EXISTING STRUCTURES:

A. Continuance Of Use: Any existing structure that is occupied at the effective date hereof may remain in use in its present condition as long as:

1. The occupancy classification remains the same; and
2. No serious life safety hazard exists that would constitute an imminent threat.

B. Discontinuance Of Use; Repairs, Alterations Or Removal: If, upon an inspection of any existing structure, pursuant to the provisions of this chapter, the building official finds and determines there is a serious life safety hazard that constitutes an imminent threat to those persons in and around that structure, then the building official shall order:

1. The structure vacated;
2. The owner of the structure to repair, rehabilitate or remove the life safety hazard, as specified by the building official; and
3. The structure remain vacated until the building official certifies that the structure no longer has any life safety hazards which constitute an imminent threat.

C. Appeal Procedure:

1. Right To Appeal: Any owner of an existing structure who has been ordered to vacate all persons from the structure by the building official, pursuant to the provisions of this chapter, may appeal the building official's order to the village council.
2. Notice Of Hearing: The village council shall publish notice of the date, time and place of a hearing on the appeal in a newspaper of local general circulation once a week for two (2) consecutive weeks.
3. Time For Hearing: The hearing shall take place no sooner than ten (10) days from the last notice published.
4. Presentation Of Cases; Due Process: The village council shall allow both parties to fully present their respective cases to the council. The hearing held by the village council shall be an administrative hearing affording the parties to the appeal the full due process of law.
5. Council Decision: The village council's decision shall be final with no further appeal available. (Ord. 1992-01, 3-19-1992)

8-2-5: FIRE PROTECTION DEVICES AND EQUIPMENT:

The building official shall have the power to require and enforce an owner of an existing structure to acquire or maintain fire protection equipment, including, but not limited to, smoke alarms, fire extinguishers or sprinkler systems. Failure by the owner of the existing structure to acquire or maintain fire protection equipment, as specified and ordered by the building official, is a type of life safety hazard that constitutes an imminent threat. (Ord. 1992-01, 3-19-1992)

8-2-6: COPY OF PROVISIONS:

A copy of this chapter and a complete and updated copy of the 1997 edition of the life safety code with any and all of its amendments and appendices shall be kept available for public inspection during regular business hours at the office of the village clerk, located at suite D of the mini-mart plaza in the village. (Ord. 1992-01, 3-19-1992; amd. 2003 Code)

TITLE 9

ZONING REGULATIONS

CHAPTER 1

TITLE, PURPOSE AND INTENT

SECTION:

9-1-1: Short Title

9-1-2: Purpose And Intent

9-1-3: Scope; Compliance With Provisions

9-1-4: Interpretation Of Provisions

9-1-5: Severability

9-1-1: SHORT TITLE:

This title shall be known as and may be cited as the *ZONING AND LAND USE ORDINANCE, ORDINANCE 2002-02, THE ZONING ORDINANCE, OR THIS ZONING CODE*. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

9-1-2: PURPOSE AND INTENT:

A. Purpose: The purpose of this title is to safeguard the health, safety, morals, and general welfare of the Village and its residents by regulating the design, location, use and occupancy of all buildings and/or structures, resulting in the orderly

development of land and land uses within the Village.

B. Intent: The intent of this title is to ensure a fair and reasonable process for development in the Village with known and reasonably applied standards to achieve its purpose. (Ord. 2002-02, 1-17-2002)

9-1-3: SCOPE; COMPLIANCE WITH PROVISIONS:

A. The provisions of this title shall apply to the construction, alteration, moving, repair and use of any building, parcel of land or sign within the Village unless specifically excluded in this title.

B. Where, in any specific case, different applicable sections of this title specify different requirements, the more restrictive shall apply. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall apply.

C. In fulfilling its purpose, this title is intended to benefit the public generally and not any specific person or class of persons. Although through the implementation, administration and enforcement of this title, benefits and detriments may be enjoyed or suffered by specific individuals, such is merely an unintended consequence of the benefits to the Village as a whole. Therefore, unintentional breaches in the administration and enforcement of this title hereby shall not be nor form a basis for any action or claim against the Village. (Ord. 2002-02, 1-17-2002)

D. No use, building or structure shall be constructed or authorized unless and until the location and extent of the use, building or structure are in conformance with this title. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

9-1-4: INTERPRETATION OF PROVISIONS:

A. This title states the requirements adopted for the promotion and protection of the public health, safety, and welfare. Whenever the requirements of this title are in conflict with the requirements of any other code, rule, regulation or ordinance adopted by the Village, the more restrictive or one imposing the higher standard shall govern.

B. The interpretation and application of this title shall be made by the zoning official and the Coordinator. An appeal by any party of any interpretation and/or application by the zoning official and the Coordinator shall be heard by the commission. Unless otherwise provided, the commission's interpretation and application of this title are final. The party making the interpretation appeal may appeal the commission's interpretation to Council in accordance with subsections 9-3-8B2, B3, and B4 of this title as a formal appeal.

C. This title shall not be construed to provide relief from or lessen the responsibility of any person owning, operating, leasing or controlling any building or parcel of land for any damages to persons or property caused by defects, nor shall the Village be held as assuming or having any liability by reason of any action taken pursuant to this title. (Ord. 2018-03, 9-11-2018)

9-1-5: SEVERABILITY:

If any section, sentence, clause or provision of this zoning code is for any reason held to be unconstitutional or otherwise invalid by a court having jurisdiction over such matters, such decision of that court shall not affect the validity of the remaining sections, sentences, clauses or provisions of this zoning code, it being the intent of the council that this zoning code shall remain effective and enforceable notwithstanding the invalidity or unconstitutionality otherwise determined of any section, sentence, clause, or provision. (Ord. 2002-02, 1-17-2002)

CHAPTER 2

DEFINITIONS

SECTION:

9-2-1: Definitions

9-2-1: DEFINITIONS:

For the purposes of this code, the following words and phrases mean:

ABANDON: To give up by leaving one's responsibility; to cease construction or repair of a structure, equipment or real property.

ACCESSORY BUILDING: A subordinate building customarily incidental to and located on the same lot occupied by the main use or building, such as a detached garage.

ACCESSORY LIVING QUARTERS: An accessory building used solely as the temporary dwelling of guests of the occupants of the premises; such dwelling having kitchen facilities and used as a separate dwelling unit. (Shall have the same owner as the principal building.)

ACCESSORY USE: A use conducted on the same lot as the primary use of the structure to which it is related; a use that is clearly incidental to and customarily found in connection with such primary use.

ADULT USE: A business restricted to and appropriate only for persons over twenty one (21) years of age, such as, but not limited to, adult bookstore, adult entertainment, adult cabaret, adult motion picture theater, adult novelty store.

ALLEY: Any public way or thoroughfare less than sixteen feet (16') in width that has been dedicated or deeded to the public

for public use.

ALTERATION: Any change, addition, or modification in construction, occupancy or use.

ANIMAL CARE/VETERINARY: A business devoted to the care of domestic animals without kennels.

ANTENNA: Any exterior device for transmitting and receiving wireless communication that is mounted on a tower, building or structure and that is used to send and receive signals for cellular telephones, personal communications service (PCS), mobile radio, paging, wireless internet access, and similar communication services. Antennas may include panels, microwave dishes, satellite dishes, whip antennas, or other devices that may be affixed to a tower, pole or other structure.

ANTENNA, ATTACHED: An antenna mounted on the exterior of an existing building, chimney, smokestack, water tower, utility or power pole, existing wireless communication tower, or an alternative support structure.

ANTENNA, CONCEALED (STEALTH): An antenna with a support structure that screens or camouflages the presence of antennas and/or towers from public view in a manner appropriate to the site's context and surrounding environment. Examples include bell towers, clock towers, flagpoles, utility poles, light poles, water tanks, architectural and facade features.

ARCHITECTURAL APPROPRIATENESS: The architectural review of zoning permit applications as it pertains to the requirements of this code.

ARCHITECTURAL CONTROL COMMITTEE: The committee appointed to enforce the declaration of restrictive covenants of a subdivision.

ATTACHED SIGN: Any type of sign physically attached to a building, including projecting signs, hanging signs, and wall signs.

BED AND BREAKFAST FACILITY: A commercial activity conducted within a structure, which includes dining and bathroom facilities with sleeping rooms for short term guest lodging.

BUILDABLE AREA: That portion of a lot upon which buildings, structures or other development may be placed, limited by floodplain, slope or other terrain constraints, required setbacks, minimum open space standards or other design and development standards set forth in this zoning code.

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING CODE: The building code as adopted by the village.

BUILDING HEIGHT: The vertical distance above the highest existing grade measured to the highest point of the building roofline.

BUILDING INSPECTOR: Will have qualifications certified by the state and a national certification agency to inspect residential and commercial projects to ensure compliance with the local building codes.

BUILDING LINE: The perimeter of that portion of a building or structure nearest a property line.

BUILDING OFFICIAL: The officer or other designated authority charged with the administration and enforcement of the building code, or the building official's duly authorized representative.

BUILDING, PRINCIPAL: A building in which the principal use of the site is conducted.

BUILDING SITE: The lot area required or used for the construction or location of buildings.

BUSINESS COMPLEX: A business or commercial complex of two (2) or more separate businesses located in separately secured spaces, under separate ownership/leases and operating under separate business licenses and zoning certificates.

CC&Rs, RESTRICTIVE COVENANTS: Regulations governing the use of land within a specific subdivision.

CALIPER: The circumference of a tree trunk measured one foot (1') above the ground excluding knots, branches, and other irregularities in the trunk.

CARPORT: A roofed structure open on at least two (2) sides and used for the storage of private or pleasure type vehicles.

CERTIFICATE OF OCCUPANCY: A statement that the described portion of the building has been inspected for compliance with the requirements of this zoning code for the group and division of occupancy and the use for which the proposed occupancy is classified.

CHARTER SCHOOL: An educational institution granted a special charter from the New Mexico public education department.

CHURCH: A building or group of buildings used primarily as a place of communion or worship and includes convents, religious education buildings and parish houses, but not parochial schools.

CLEAR SIGHT TRIANGLE: A triangular area of unobstructed vision at a street intersection or a point of ingress/egress to a parking lot. It is measured beginning at the point where two (2) perpendicular rights of way meet, then measuring fifteen feet (15') away from the intersection in each direction of the two (2) rights of way. These two (2) points are then connected to form a triangle. Within this triangle, there is a clear zone between three feet (3') and eight feet (8') measured from any point within the clear sight triangle.

CLINIC: An establishment in which patients are not lodged overnight but are treated and examined by one or more members of the healing profession.

CLUSTER HOUSING: The location of houses in close proximity to each other so there will be large areas of open land contiguous to the built up areas.

CODE OFFICIAL: Enforces this zoning code for the village, but does not adopt and promulgate rules and procedures.

COLOCATE: Use by two (2) or more wireless communication providers on the same tower or other alternative structure.

COMMERCIAL, GENERAL: An establishment or business which generally uses open sales yards, outside equipment storage, or outside activities that generate noise, or other impacts considered incompatible with less intense uses. Typical businesses in this definition are lumberyards, construction specialty services, heavy equipment suppliers or building contractors.

COMMISSION: The planning and zoning commission of the village.

COMMON AREA: An open area for the use of a specific group, such as members, owners, tenants, etc. In condominiums, it is owned in common; in subdivisions, it is owned by the developer and set aside for common use, commonly known as greenbelts.

COMMUNITY EVENT SIGNS: On premises or off premises signs, primarily attached to or hung from light poles or on buildings. These signs are solely decorative, festive and of an informative nature announcing activities, promotions or events with seasonal or traditional themes having broad community interest, and which are sponsored or supported by a jurisdiction based organization.

COMPANION ANIMALS (PETS): Those small mammals and birds not used for business purposes, most commonly, cats and dogs.

CONDITIONAL USE: A use that would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions established by the council.

CONDOMINIUM: A single dwelling unit in a multi-unit dwelling or structure, which is separately owned, and which may be combined with an undivided interest in the common areas and facilities of the property.

CONGREGATE RESIDENCE: Any building or portion thereof that contains facilities for living, sleeping and sanitation as required by this zoning code, and may include facilities for eating and cooking, for occupancy by other than a family. A "congregate residence" may be a shelter, convent, monastery, dormitory, and fraternity or sorority house, but does not include jails, hospitals, nursing homes, assisted living, hotels, or lodging houses.

CONTIGUOUS: Being in actual contact with or touching along a boundary or point.

COUNCIL: The village council of the village of Angel Fire, New Mexico.

COURT: A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three (3) or more sides by walls of a building.

DENSITY: The number of dwelling units which is allowed on an acre of land.

DRIVEWAY: A private access road, the use of which is by persons residing, employed, or otherwise using or visiting the parcel in which it is located.

DRIVING AISLE: The driving portion of the parking lot providing access to each space.

DWELLING, SINGLE-FAMILY: A detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.

DWELLING UNIT: Any building (including manufactured homes) or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by this zoning code, for not more than one family, or a congregate residence for six (6) or fewer persons. The term dwelling shall not include hotels, motels, RVs, tents, or other structures designed or used primarily for temporary occupancy. Any dwelling shall be deemed to be a principal building.

EASEMENT: That portion of a lot or lots reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The "easement" may be for use under, on or above said lot or lots.

ENCROACHMENT PERMIT: A permit issued to a private party, corporation, or utility company for the purpose of excavating a trench or pit, or boring under, or within a village right of way for the installation of utility lines, conduits, or drainage structures.

ENVIRONMENT DEPARTMENT: The state of New Mexico environment department.

ERECT: To build or construct any structure.

EXCESSIVE SLOPE: Any slope greater than twenty percent (20%).

FAMILY: A. An individual; or

B. Two (2) or more persons related by blood, marriage, or adoption; or

C. A group, not to exceed six (6) unrelated persons, living together as a single housekeeping unit as permitted by law.

FARM ANIMALS: Animals other than household pets that may, where permitted, be kept and maintained for commercial production and sale and/or family food production, education or recreation. "Farm animals" are identified by these categories: large animals, e.g., horses and cattle.

FENCE: A fence, wall, hedge, or other structure forming a boundary or enclosing an area.

FLEA MARKET: A market conducted occasionally or periodically by an operator, held in an open area or structure, where groups of individual vendors offer goods for sale to the public.

FLOOR AREA: The sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls or, if appropriate, from the centerline of dividing walls; this includes courts and decks or porches when covered by a roof.

FRONT: The side of the business facing the major road.

FRONT YARD: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto.

FRONTAGE: The width of a lot or parcel abutting a public right of way measured at the front property line.

GARAGE, PRIVATE: An enclosed secure structure, either attached or detached to a building in which only private or pleasure type motor vehicles used by the tenants or owners of the building or buildings on the premises are stored or kept.

GRADE: The highest point of elevation of the finished surface of the ground within the area of the building.

GRADE (ADJACENT GROUND ELEVATION): The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet (5') from the building, between the building and a line five feet (5') from the building.

GRAZING: The feeding primarily of native or introduced plants growing in place on the ground by domestic livestock on an open range or fenced pasture for commercial purposes and uses commonly incidental thereto, but not including commercial feed pens, stockyards, bone yards, fertilizer yards, slaughterhouses, or plants for the reduction of animal matter. The number of said livestock shall not exceed the natural carrying capacity of the land as determined by prudent conservation practices.

GREENBELT: An area within a subdivision set aside to remain undeveloped and used for the recreational use of the subdivision owners (see definition of Common Area).

HAZARDOUS ACTIVITY: Any use or activity that results in a significant risk to the health, safety, or welfare of the citizens of the village of Angel Fire as determined by the village council, or by state or federal regulatory agencies. (Some examples of hazardous activity are, but are not limited to: noise, dust, vapor, fumes, odors, smoke, vibration, glare, industrial waste.)

HEIGHT OF ANTENNA: The vertical distance from the preexisting grade at the base of the tower to the highest point of the tower including antennas.

HEIGHT OF BUILDING: The vertical distance on each side of the building shall be measured from the ridgeline to the highest point of finished grade.

HIGH WATER TABLE: Ground water, either seasonal or perennial, that may affect the structural stability and integrity of any building or structure or the construction thereof.

HOME OCCUPATION: The partial use of a dwelling unit for commercial or nonresidential uses by a resident thereof which is subordinate and incidental to the use of the dwelling for residential purposes.

HOSPITAL: An institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services, primarily for inpatients, and including, as related facilities, laboratories, outpatient departments, training facilities and staff offices, but not including clinics or healthcare centers.

HOTEL OR MOTEL: A building containing as its principal use, sleeping rooms designed to be rented for short term occupancy and which may or may not have eating or drinking facilities as an accessory use.

ILLUMINATION/LIGHTING: Lighting used for any purpose.

IMPROVEMENT: Any building, structure, or other object constituting a physical betterment of real property or any part of such betterment.

INTENSITY OF USE: Number of buildings or families per acre.

JUNKYARD: See definition of Salvage Yard, Junkyard.

KENNEL: Any lot or premises on which four (4) or more adult dogs or cats (not including livestock or farm animals) are kept, for compensation. (Not a veterinary establishment.)

KITCHEN: Any room or portion of a room within a building designed and intended to be used for the cooking or preparation of food.

LANDSCAPING: The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally

growing elements such as grass, trees, shrubs and flowers. This treatment may also include the use of logs, rocks, fountains, water features and contouring of the earth.

LIGHT POLLUTION: The light that escapes the intended area of illumination, i.e., light pointing up or reflecting into the night sky.

LIGHT REFLECTIVE VALUE: A measurement of the percentage of the total visible light that is reflected from a surface. The LRV of paint, stucco, or a roof material is available from the manufacturer or at retail outlets; the LRV measures the amount of light reflected by a certain material and color.

LIVESTOCK (FARM ANIMALS): Includes, but is not limited to, horses, bovine animals, sheep, goats, poultry, swine, reindeer, donkeys, mules, any other hoofed animals, and animals domesticated and useful to man.

LOT: A single parcel of land.

MANUFACTURED HOME: As defined by New Mexico Statutes Annotated section 3-21A-2, is a home that is a single-family dwelling with a heated area of at least thirty six feet by twenty four feet (36' x 24') and at least eight hundred sixty four (864) square feet constructed in a factory to the standards of the United States department of housing and urban development, the national manufactured housing construction and safety standards act of 1974, and the housing and urban development zone code II or the building code, as amended to the date of the unit's construction and installed consistent with the manufactured housing act, New Mexico Statutes Annotated chapter 60, article 14.

METEOROLOGICAL TOWER (MET TOWER): Is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

MIXED USE: A zoning district including multiple zone types such as residential and commercial on the same lot.

MOBILE HOME: As defined by New Mexico Statutes Annotated section 3-21A-3, is a movable or portable housing structure larger than forty feet (40') in body length, eight feet (8') in width and eleven feet (11') in overall height, designed for and occupied by no more than one family for living and sleeping purposes but does not include structures built to the standards of any municipal building code and other technical codes.

MOBILE HOME PARK: A tract of land developed and operated as a unit with individual sites and facilities to accommodate two (2) or more mobile homes.

MORTUARY (FUNERAL HOME): An establishment in which dead persons are prepared for burial or cremation. The facility may include a chapel for the conduct of funeral services and space for funeral services and informal gatherings and/or display of funeral equipment.

MOTEL (HOTEL): Any building containing six (6) or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

MOVING: Any change in the location of a structure, including the relocation of a structure to a new location on the same lot or lots.

NONCONFORMING BUILDING: A building or structure or portion thereof lawfully existing at the effective date hereof, which was designed, erected or structurally altered for a use that does not conform to this zoning code.

NONCONFORMING LOT: A lot whose width, area, or other dimension that existed at the effective date hereof, which does not conform to this zoning code.

NONCONFORMING SIGN: A sign or sign structure or portion thereof lawfully existing at the effective date hereof, which does not now conform.

NONCONFORMING USE: See definition of Use, Nonconforming.

OFF PREMISES SIGN: A sign or billboard that advertises a business, product, or event that is not located on the same lot where said business, product, or event is located.

OPEN SPACE: Land area not occupied by buildings, structures, parking areas, streets, alleys or required yards. Unless otherwise prohibited, "open space" may be devoted to landscaping, preservation of natural features, patios, and recreational areas and facilities.

PARK: A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

PARKING, OFF STREET: Any parking space located wholly within the limits of one or more lots.

PARKING SPACE: An area, exclusive of drives, turning areas, or loading space, devoted to the parking of a vehicle, unless otherwise defined in this title, a minimum of nine feet (9') by eighteen feet (18') by seven feet (7') high. Parking spaces may also be defined as parking stalls.

PERMITTED USE: A use of land within any particular zoning district that is authorized as a matter of rights so long as all other requirements of this zoning code are met.

PERSON: A natural person, heirs, executors, administrators, or assigns, and also includes a firm, partnership or corporation, or its successors or assigns, or the agent of any of the aforesaid.

PLANNED UNIT DEVELOPMENT (PUD): A residential or commercial development guided by a total design plan in which one or more of the zoning, other than use, regulations may be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

PLANS: All plans, specifications, sketches, renditions and other materials depicting and describing a building or structure in sufficient enough detail and clarity that a determination can be made by the building official and the commission that said building or structure is in full compliance with all applicable village, state, and federal codes pertaining to such building, structure or use.

PRIVATE ROAD OR DRIVE: Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky that is privately owned and not dedicated or maintained by the village.

PROFESSIONAL OFFICE: An office that is devoted to such professions as doctors, lawyers, dentists, architects, veterinarians and other similar professional activities and office space.

PROJECT: A proposal or organized undertaking, such as a building that is under construction or to be constructed.

PUBLIC BUILDING: Any building open to general use, participation, or enjoyment by the public.

PUBLIC ROAD OR WAY: Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky that is deeded, dedicated or otherwise permanently appropriated to the public for public use.

PUBLIC UTILITY: Any physical facility designed for:

A. The storage, production, treatment or transportation of electricity, petroleum products, natural gas and other forms of energy; or

B. The storage and transportation of telephone, cable television and other forms of communication; or

C. The storage, production, treatment, or transportation of both potable and nonpotable water and for the collection, transportation, treatment and final disposal of domestic and nondomestic wastewater.

PUBLIC UTILITY STATION: A structure or facility used by a public or quasi-public utility agency to store, distribute, or generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

QUASI-PUBLIC: Essentially a public use, although under private ownership or control.

QUORUM: A majority of the voting members of the commission.

RECONSTRUCTION: The work of rebuilding a structure.

RECREATIONAL VEHICLE: A vehicular unit, other than a mobile home, whose gross floor area is more than thirty two (32) square feet, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth wheel trailer or van.

REMODELING: See definition of Alteration.

RENOVATION: Interior or exterior remodeling of a structure, other than ordinary repair.

REPAIR AND MAINTENANCE: Work done to maintain a structure in good condition.

RESIDENTIAL UNIT: One or more rooms, in addition to kitchen and bath facilities, intended or designed for occupancy by a family.

RESTAURANT: An establishment that provides food for on premises consumption.

ROTOR DIAMETER: The cross sectional dimension of the circle swept by the rotating blades.

SALVAGE YARD, JUNKYARD: Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, materials such as scrap metals, paper, rags, tires and bottles.

SCHOOL: A group of teachers and students formed for the purpose of education.

SERVICE YARD: Any yard in which fuel, materials or other supplies are stored.

SETBACK: The minimum horizontal distance between the lot line and the nearest ground point on the principal building including, but not limited to, steps, chimney chases, porches and decks.

SHALL OR MAY: The word "shall" is mandatory; the word "may" is permissive.

SIGN: An advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement or promotion of the interests of any person, entity, product or service, including the sign structure, supports, lighting system and any attachments, ornaments or

other features used to draw the attention of observers.

SIGN, CANOPY: An open air structure associated with gasoline pumps protecting said pumps from rain, snow and sun.

SIGN FACE AREA: The total exterior surface of all faces of any sign. Odd shaped signs shall be squared off for the purpose of measuring and determining the sign face area.

SIGN, FREESTANDING: A sign erected upon its own support and not attached to a building.

SIGN, PROJECTING: Any sign supported by a building and projecting therefrom.

SIGN, WALL: Any sign painted on, incorporated in, or affixed to a building wall or window; or any sign consisting of cutout letters or devices affixed to a building wall or window with no background defined on the building wall or window.

SINGLE-FAMILY RESIDENCE: Shall be construed to have its ordinary generally accepted meanings and shall be limited to a single housekeeping unit, operating on a noncommercial basis between its occupants, cooking and eating with a common kitchen and dining area.

SITE PLAN: A plat of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

SLOPE: The vertical change in a land surface calculated as follows:

$$\frac{H - L}{D} \times 100 = \% \text{ slope}$$

D

Where H is the highest elevation of the area for which slope is being determined; L is the lowest elevation of the area for which slope is being determined; and D is the horizontal distance between H and L measured perpendicular to the contour lines.

STABLES: An area where horses are kept for the purpose of recreational riding or boarding.

STACKING LANE: A one-way driving lane where vehicles line up for services from a drive-up window.

STORY: That portion of building included between the upper surface of any floor and the upper surface of the floor next above; except, that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under floor space is more than six feet (6') above "grade", as defined herein, for more than fifty percent (50%) of the total perimeter, or is more than twelve feet (12') above "grade", as defined herein, at any point, such usable or unused under floor space shall be considered as a story.

STORY, FIRST: The lowest story in a building that qualifies as a "story", as defined herein; except, that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four feet (4') (1,219 mm) below "grade", as defined herein, for more than fifty percent (50%) of the total perimeter, or not more than eight feet (8') (2,438 mm) below "grade", as defined herein, at any point.

STREET: Any thoroughfare or public way not less than sixteen feet (16') in width that has been dedicated or deeded to the public for public use, whether accepted for maintenance or not.

STRUCTURAL ALTERATION: Any change to a structure, or subtraction of parts from a structure, including changes to walls, columns, beams, girders, foundations, doors, windows, or other similar component parts of a structure.

STRUCTURE: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

SUBDIVISION: For the purpose of approval by the village council:

- A. For the area of land within the corporate boundaries of the village, the division of land into two (2) or more parts by platting or by metes and bounds description into tracts for the purposes set forth in subsection C of this definition; and
- B. For the area of land within the village's extraterritorial platting jurisdiction, the division of land into two (2) or more parts by platting or by metes and bounds description into tracts of less than five (5) acres in any one calendar year for the purposes set forth in subsection C of this definition.
- C. The division of land pursuant to subsections A and B of this definition shall be for the purpose of:
 1. Sale for building purposes;
 2. Laying out the village or any part thereof;
 3. Adding to the village;
 4. Laying out suburban lots; or
 5. Resubdivision.

TEMPORARY BUILDING: Any building not placed on a permanent foundation, except trailers or other structures used for the storage and safekeeping of equipment and supplies during a construction project.

TOWER: A self-supporting structure such as a lattice tower or monopole, a guyed tower, or a structure affixed to or mounted on an existing or newly constructed building or other permanent structure, together with associated equipment, designed to support one or more antennas.

USE: The activity occurring on a lot or parcel for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied, including all accessory uses.

USE, CHANGE OF: The change of a structure's or premises' uses.

USE, NONCONFORMING: A use which lawfully occupied a building or land at the effective date hereof, which has been lawfully continued and which does not now conform with this zoning code.

VARIANCE: The means by which an adjustment is made in the application of the specific regulations of this zoning code to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone.

VETERINARY ESTABLISHMENT: An animal care facility operated by a licensed veterinarian for the purpose of diagnosis and treatment, prevention, and welfare of sick, injured, or healthy companion animals.

VIEWSHED: The area designated for public enjoyment of distant views from a public right of way.

VILLAGE: The village of Angel Fire, Colfax County, New Mexico.

WALL: See definition of Fence.

WAREHOUSE, WHOLESALE OR STORAGE: A building or premises in which goods, merchandise or equipment is stored.

WATER, ACRE-FOOT: An area of land containing forty three thousand five hundred sixty (43,560) square feet covered by water to a depth of one foot (1') equals one acre-foot of water, or three hundred twenty five thousand eight hundred fifty one (325,851) gallons of water.

WATER RIGHT: For the purposes of this code, a water right is a priority first water right within the Canadian River ground water basin.

WIND ENERGY SYSTEM: Equipment that converts and then stores or transfers energy from the wind into usable forms of energy, any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

WIND ENERGY SYSTEM, SMALL RESIDENTIAL: A wind energy system that is used to generate electricity and has a nameplate capacity of ten (10) kilowatts or less.

WIND ENERGY TOWER: The monopole, freestanding, or guyed structure that supports a wind generator.

WIND GENERATOR: Blades and associated mechanical and electrical conversion components mounted on top of the tower.

WIRELESS TELECOMMUNICATION FACILITIES: Any combination of one or more antennas, towers and/or structures with equipment used for the transmission of wireless communication.

YARD: An open, unoccupied space on a lot, other than a court, which is unobstructed from the ground upward by buildings or structures except as otherwise provided in this zoning code.

ZONING CERTIFICATE: The certificate issued by the village in accordance with this zoning code and certifying compliance with the applicable district and this zoning code. (Ord. 2002-02, 1-17-2002; amd. 2003 Code; Ord. 2004-10, 11-4-2004; Ord. 2005-01, 1-20-2005; Ord. 2005-04, 7-18-2005; Ord. 2006-09, 8-17-2006; Ord. 2008-05, 7-15-2008; Ord. 2008-11, 11-4-2008)

Notes

1. See section 8-1-1 of this code. 1. The purpose of the building code is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, and quality of materials, use and occupancy, location and maintenance of all buildings and structures within the village.

CHAPTER 3

ADMINISTRATION AND ENFORCEMENT

SECTION:

9-3-1: Planning And Zoning Commission

9-3-2: Enforcement Officials

9-3-3: Administrative And Permit Reviews And Approvals

9-3-4: Procedures For Permits And Certificates

9-3-5: Variances

9-3-6: Amendments

9-3-7: Fee And Deposit Schedule

9-3-8: Hearings And Appeals

9-3-9: Violations; Penalties

9-3-1: PLANNING AND ZONING COMMISSION:

A. Purpose: This section establishes the planning authority of the Village and sets forth its duties and responsibilities with respect to this title.

B. Commission Established; Appointment And Term; Vacancy: The commission is hereby created and established, with five (5) members and one (1) alternate member, each with one (1) vote. The alternate member may attend, participate and fill in for a regular member, who is unable to attend a scheduled meeting of the commission. Commissioners are appointed by the Mayor with the advice and consent of the Council. In appointing members to the commission, the Mayor shall give due consideration to maintaining a balance of interests on the commission and to the individual qualification and skill of each member. Commissioners must reside within the Village limits. The term of each member shall be two (2) years which are staggered and renewable by Mayor's appointment with advice and consent of Council. A vacancy on the commission shall be filled for the remainder of the unexpired term by appointment by the Mayor with the advice and consent of the Council. (Ord. 2017-04, 6-13-2017)

A Commissioner may be removed by the Mayor on the recommendation of the commission if:

1. A Commissioner misses three (3) consecutive meetings; or
2. A Commissioner misses five (5) meetings through the course of a calendar year. (Ord. 2004-03, 4-20-2004)

C. Organization:

1. Officers And Rules: A Chairman and Vice Chairman shall be elected annually from the commission members at the first meeting in August. At that meeting, the commission may adopt rules and procedures for its organization and transaction of business. (Ord. 2002-02, 1-17-2002)

2. Meetings: The commission shall set a date and time for its regular monthly meetings. The commission shall maintain minutes of its proceedings. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

3. Quorum: A quorum is a majority of commission members. A quorum must be present at any commission meeting. In order for the commission to conduct business, only members physically present at the meeting place shall be included in the quorum count. No vote may be by proxy or by any other remote means.

4. Voting; Findings Of Fact:

a. Voting: A vote of a majority of the commission members present is necessary to decide any matter under consideration. Each decision shall be recorded in the minutes of each commission meeting.

b. Findings Of Fact:

(1) Development Proposal: The commission or the Council shall not approve a development proposal unless the following have been found:

(A) All required submittals have been made by the applicant; and

(B) That the required notice has been complied with by the applicant; and

(C) That the proposal conforms to the cumulative requirements of this title and other applicable Village, State and Federal regulations; and

(D) That the proposed development provides for utilities, roads, liquid waste and solid waste disposal, water supply and all other improvements required by this title and necessary for the function of the development within its location in the Village, in accordance with the standards set forth in this title.

(2) Rezone: For any rezoning application, the commission and Council shall also consider:

(A) The need and justification for the zone change; and

(B) The effect or impact of the change or development on surrounding properties and the environment of the site, including the nature and intensity of the proposed land use(s).

D. Duties And Powers:

1. Reports And Recommendations: The commission shall make periodic reports and recommendations to the Council.

2. Master Plan:

a. The commission, with the assistance of staff, shall design and, after public hearings, recommend to the Council a master plan for the physical development of the Village ("plan"). The plan may include the extraterritorial planning and platting area outside the Village boundaries that require coordination with the planning of the Village.

b. The commission may also recommend amendments to the plan at any time, but shall present amendments to the Council at least every five (5) years.

3. Zoning Code: The commission shall recommend a zoning code to the Council for adoption. Such zoning code shall be in accord with the plan. Such plan may establish zones within the Village considering the character of each zone and the most appropriate use of land within the Village.

4. Subdivision Regulations: The commission shall recommend subdivision regulations to the Council for adoption. Such subdivision regulations shall be in accordance with the master plan.

5. Conditional Use Permits: The commission shall review and recommend action to the Council on each conditional use permit application. The granting of a conditional use permit shall not exempt the applicant from compliance with other relevant provisions of applicable ordinances.

6. Variances: A request for variance shall be filed with the Planning and Zoning Office. The commission shall review and recommend action to the Council on each variance request.

7. Special Development Permits: An application for a special development permit may be subject to Council approval, considering the commission's recommendations. (Ord. 2002-02, 1-17-2002)

8. Decisions: The commission may enter any decision within its authority and shall make recommendations to the Council, which decisions and recommendations shall be consistent with the spirit and intent of this title. Positive recommendations of approval by the commission shall be forwarded to the Council for approval. Negative recommendations of the commission shall not be forwarded to the Council unless appealed by the applicant in accordance to subsection 9-3-8B of this chapter. The Director shall notify the applicant of any recommendation within ten (10) days of the commission's decision. (Ord. 2004-03, 4-20-2004)

9. Decision Time Limit: Commission recommendations to Council shall be valid for a period of eighty (80) days from the date of official recommendation. If, after the commission sends a positive recommendation to Council and an applicant subsequently requests that a case be tabled or withheld from a timely Council agenda for consideration, then the commission recommendation shall become invalid after eighty one (81) days. (Ord. 2006-09, 8-17-2006)

9-3-2: ENFORCEMENT OFFICIALS:

This section establishes the responsibilities of the zoning official and the Planning and Zoning Coordinator with respect to the administration of this title and describes the role of the building official in the administration and application of this title.

A. Planning And Zoning Coordinator: The Planning and Zoning Coordinator (Coordinator) is an employee of the Village charged by the Village to ensure that the processes, procedures and directives of this title are followed as well as the directives and decisions made by the commission and the Council. The Coordinator may make recommendations with respect to any decision coming before the commission and the Council.

B. Zoning Official: The zoning official (including any designee and/or Code Enforcement Officer) is an employee of the Village charged by the Village to ensure that the directives of this title are followed as well as the directives and decisions made by the commission and the Council. The zoning official or designee shall be responsible for:

- 1. Enforcing this title;
- 2. Inspecting sites to ensure compliance with all items on the application and plans; and
- 3. Issuing a "desist order" (red tag) if a property or construction for which this title is applicable is not in compliance.

C. Deputies And Assistants:

1. The Coordinator and zoning official may appoint technical officers and other employees as may be needed from time to time in accordance with the personnel ordinance 1

2. The Coordinator and zoning official may request, through the Village Administrator, the assistance and cooperation of other officials of the Village in the administration and enforcement of this title.

D. Nonliability Of Enforcement Officials: The zoning official and Coordinator are each charged with the enforcement of this title, and when acting in good faith, without malice and within the scope of and in the discharge of the duties described in this title, shall not be personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of such duties. Any suit brought because of or based upon this title or the actions or omissions performed by an employee of the Village shall be defended by the Village until resolution. (Ord. 2018-03, 9-11-2018)

1. See title 2 of this Code.1 of the Village.

9-3-3: ADMINISTRATIVE AND PERMIT REVIEWS AND APPROVALS:

A. Compliance With State And Federal Regulations: All projects must meet applicable State and Federal rules and procedures.

B. Review:

1. Building Permits:

a. All applications for building permits shall be submitted to the Planning and Zoning Office of the Village for review by the Coordinator, prior to submission to the State of New Mexico and shall be approved according to procedures established by this title. Each application shall include one set of building plans and all data necessary to demonstrate that the requirements of all applicable codes are met. Include a detailed scope of work for any new additions/remodels/alterations, made to any existing structure.

b. Slopes twelve percent (12%) or greater shall require a building pad profile and attached building elements such as decks to be submitted to the Village as part of the required building plans. Property lines and setback lines are to be shown on the profile, along with drainage swales when required. On sites connecting to Village utilities, existing water lines and sewer lines with invert elevations shall be shown on the profile.

c. All commercial/multi-family construction projects larger than ten thousand (10,000) square feet will need site plan approval by the Council. Commercial projects of any size will be required to also follow all applicable State regulations and rules of procedures.

d. The building official for Construction Industries Division is responsible for issuing building permits.

2. Zoning Certificates: The Coordinator will review all projects requiring zoning certificates and be responsible for issuing the certificates.

3. Special Development Permits: Projects to be included in any special development area shall be reviewed by the Council. The Coordinator may issue the permit.

4. Conditional Use Permits: All applications for conditional use permits shall be filed with the Planning and Zoning Office. The zoning official and Coordinator shall review conditional use permit applications for completeness and prepare recommendations for consideration by the commission and Council.

5. Sign And Banner Permits: All sign and banner permit applications shall be submitted to the Planning and Zoning Office for review by the zoning official and shall be approved in accordance with this title.

6. Use Determinations: Any person may apply to the commission for a determination as to whether a proposed specific use is expressly or conditionally permitted. Within a zoning district such determination shall be based on an analysis of the intention of the zoning district and the compatibility and consistency of the proposed specific use with permitted and conditional uses in such district. All permitted and conditional uses within each zoning district are subject to additional regulations as contained in this title and any other ordinances and regulations adopted by the Village or any other governmental entity with jurisdiction. The application for determination shall be subject to the Council's approval and considered with the commission's recommendation.

7. Variances: Requests for variances shall be made to the Planning and Zoning Office and decided by the Council with the commission's recommendation.

8. Amendments: Requests for amendments to this title or the zoning map shall be submitted to the Planning and Zoning Office for review and are then subject to Council approval, considering the commission's recommendation.

9. Engineering Review:

a. The Village may engage a professional engineer if the Coordinator decides that an engineering review is necessary to verify whether an application meets all Village development and construction. The applicant shall pay for the costs of such engineering review. The engineer retained by the Village shall not be associated with the applicant.

b. The Village shall notify the applicant of the Coordinator's decision requiring an engineering review and provide the applicant with the estimated cost of such review.

c. The applicant shall submit in writing verification of his financial responsibility sufficient to pay the estimated engineering review cost before the application review shall continue.

10. Mobile Offices: Mobile offices shall be allowed at commercial construction sites, provided there is an active building permit at the site. A mobile office shall be removed from the site prior to issuance of a certificate of occupancy for the same building permit.

C. Approvals:

1. Generally: All zoning certificates, sign permits, other building and use permits, variances and other approvals and permits related to zoning and building and issued by or on behalf of the Village shall conform to this title, as applicable. More than one building permit or approval may be required for a project and all must be applied for and approved.

2. Expiration Or Cancellation:

a. Expiration: Each permit or approval issued pursuant to this title shall expire one hundred eighty (180) days after issuance if no work is undertaken or the use is not established, unless an extension is granted by the Coordinator for up to a maximum of one hundred eighty (180) days.

b. Cancellation: Failure to comply fully with the terms of any permit or approval may be grounds for cancellation or revocation. Action to cancel any permit or approval may be taken on proper grounds by the Coordinator or the zoning official under authority of the Village. Cancellation of a permit may be appealed in the same manner as its approval.

3. Validity Of Permits And Approvals: The issuance of any permit or approval under authority of the Village ordinances shall require that the development or use in question proceed only in accordance with the terms of such permit or approval, including conditions of issuance. (Ord. 2018-03, 9-11-2018)

9-3-4: PROCEDURES FOR PERMITS AND CERTIFICATES:

A. Application Fees:

1. The Village shall charge a fee for all permit applications sufficient to cover related Village expenses. The Village is authorized to charge additional fees that are necessary to offset expenses occasioned by applications not combined with zoning certificate applications or that require special or extra publications.

2. Fees for special commission or Council meetings, or necessary consulting fees shall be set by Council resolution.

B. Zoning Certificates:

1. Requirements For Zoning And Occupancy Certificates:

a. Any change in use (classification) shall require a new certificate of occupancy and a zoning certificate. (Example: changing from a multi-family use to a business use.)

b. Temporary buildings or tents shall require a zoning certificate before installation.

c. Any change of a building's use requires the issuance of a business registration after a zoning certificate is granted.

d. Zoning certificates shall be issued only if the proposed change of the building or use of the building or land is in full conformance with this title.

e. The provision for parking shall meet the requirements of this title for the new use.

f. The zoning official shall monitor and inspect the work being performed.

g. After the issuance of a zoning certificate and/or building permit, any substantial deviation from the plans, application or representations requires a new zoning certificate or building permit, which shall be applied for and considered in the same manner as the original application.

h. Any application or other request made pursuant to this title shall be made by the owner of the property or by the authorized legal representative.

i. Any permits, approvals, conditions, or other decisions made pursuant to this title shall benefit and/or bind such applicant, the owner and the owner's heirs or assigns.

2. Application Procedure:

a. All applications for permits shall be made on forms provided by the Village for that purpose and shall be accompanied by all required documents and fees including, but not limited to, the following:

(1) Name, address and phone number of owner and/or applicant.

(2) The legal description of the property and proof of ownership.

(3) A site plan of the lot or parcel, drawn to a one inch to twenty foot (1" = 20') scale, showing the dimensions of the lot, easements, rights-of-way, location of existing building(s), location of proposed building, propane tank, fence, landscaping, exterior lighting plan, septic system, and dumpster location, if required in that zone.

(4) A site plan showing the topographic contours of not more than five foot (5') intervals covering the entire lot.

(5) Plans showing the height and elevation of the existing and proposed structures and the exterior walls and roof thereof, drawn to one-fourth inch to one foot (1/4" = 1') scale. (1/8 inch to 1 foot scale may be used for large projects.)

(6) A floor plan at a scale drawn to one-fourth inch to one foot (1/4" = 1') scale. (1/8 inch to 1 foot scale may be used for large projects.)

(7) A statement concerning the use to be made of such building or structure.

(8) A statement, if needed, setting forth the necessary variances, conditional uses, or conditional waivers, or other specific reviews being requested.

(9) The signature of the owner of the property or of some other person with written legal authority of the owner.

(10) Any other information specifically requested by the Coordinator or the Council in order to review the application for compliance with this title or any other Village ordinance or code.

b. Applications, when complete, shall be reviewed for compliance with this title, and if the application and associated filings are in such conformance, they shall be approved by the Coordinator. Upon approval, a zoning certificate shall be issued.

C. Building Permits:

1. Administration ¹

a. The Building Codes ²

b. The building official of the State of New Mexico is authorized and directed to enforce the provisions of the Building Code. For such purposes, the building official has the powers of a law enforcement officer and is to be appropriately sworn in to serve as such.

c. The building official shall have the power to render interpretations of the Building Code and to adopt and enforce rules and supplemental regulations to clarify the application of its provisions. Such interpretation, rules and regulations shall be in conformance with the intent and purpose of the Building Code. The State building official shall have the authority to issue building permits.

2. Application Procedure; Building Permit Requirements:

a. To obtain a building permit, the applicant shall first file an application with the Planning and Zoning Department to assure they are meeting the zoning requirements of this Code. Along with the zoning application the original State application, on a form furnished by the Building Code Enforcement Agency for that purpose, must be included for proper signatures by the Code Enforcement Officer or Coordinator. Every application shall:

(1) Identify and describe the work to be covered by the permit for which application is made;

(2) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work;

(3) Indicate the use or occupancy for which the proposed work is intended;

(4) Be accompanied by plans, diagrams, computations and specifications and other data as may be required by the building official;

(5) State the valuation based on the replacement cost of any new building or structure or any addition, remodeling or alteration to an existing building; and

(6) Be signed by the applicant, or the applicant's agent.

b. Documents, including one set of plans, shall be submitted along with the necessary specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs and other data as requested by the building official.

c. Any property owner or his agent may apply for a building permit.

d. All complete applications shall be reviewed and are subject to approval by the zoning official.

e. Every building permit issued by the building official pursuant to the provisions of the Building Code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one hundred eighty (180) days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days. Within one year of work stoppage, work may begin again after the permittee has paid a full permit fee.

f. An unexpired permit may be extended, suspended or revoked by the building official as provided in the Building Code.

g. All plans and work must meet the requirements of the Building Code.

h. The building official will inspect all permitted work as allowed and required by the Building Code.

i. All water and sewer hookup fees and any overdue fees owed to the Village by owner or contractor must be paid before a permit is issued.

j. A survey of the lot showing actual location of the finished exterior wall will be required by the Planning and Zoning Department before the framing inspection is requested to verify that the structure is located in accordance with the approved plans. (The finished interior wall may be extrapolated from the stem wall or the sill plate.)

k. All building setbacks shall be measured horizontally from the property lines to the vertical plane of the finished exterior wall.

l. A preliminary site inspection shall be performed by the zoning official before issuance of a building permit for new construction including additions.

m. For all new building permits, the subject lot will be thinned in accordance with the community assessments of the community wildfire protection plan and section 9-7-13 of this title. The Village Forester will identify a specific prescription for each new building permit. The lot must be thinned as part of the construction site preparation and prior to the final inspection.

The Village Forester shall also determine if adjacent lots to the subject lot need to be thinned to protect the new structure being erected. If such a determination is made, compliance will be done through section 9-6-1 of this title. The Village Forester will prepare specific thinning prescriptions in accordance with the community assessments of the community wildfire protection plan.

If the building permit is for something other than new construction, for example, additions or detached garages, the Village Forester will make the determination as to which portion of the lot will be thinned in accordance with the community assessments of the community wildfire protection plan. The Village Forester will identify a specific prescription for each new building permit. The lot must be thinned as part of the construction of the permitted work.

The Village Forester shall also determine if adjacent lots to the subject lot need to be thinned to protect the new structure being erected. If such a determination is made, compliance will be done through section 9-6-1 of this title. The Village Forester will prepare specific thinning prescriptions in accordance with the community assessments of the community wildfire protection plan and section 9-7-13 of this title.

3. Inspections And Certificate Of Occupancy:

a. In addition to the foundation survey required in subsection C2j of this section, all other required inspections are outlined in the Building Codes of the State.

b. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete, when corrections called for are not made and for other reasons as described in the Building Codes.

c. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided in the Building Codes.

d. Changes in the character or use of a building shall not be made except as specified in the Building Code for existing buildings.

e. A certificate of occupancy shall be issued after all required inspections have been made. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this title or of other ordinances of the Village.

4. Violations:

a. Whenever any work is being done contrary to the provisions of the Building Code, or other pertinent laws or ordinances implemented through the enforcement of this title, the building official of the State of New Mexico or the Code Enforcement Officer may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the building official of the State and the Code Enforcement Officer to proceed with the work.

b. Whenever any building or structure or equipment therein regulated by the Building Code is being used contrary to the provisions of this title, the zoning official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the building official and zoning official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this title.

c. Any person, firm or corporation violating any portion of this chapter is guilty of a misdemeanor and, upon receiving conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this Code for each offense. Each day during which such illegal construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense. In addition, or as an alternative to such fine and/or imprisonment, the Village may seek other remedies provided in law or equity including, but not limited to, damages, injunctions, mandamus, or abatement. (Ord. 2018-03, 9-11-2018)

D. Construction Time:

1. Unless additional time is granted for good cause, all interior and exterior construction must be totally completed within one year of the building permit date with a single one year extension available.

2. If not completed within twenty four (24) months, the building permit and approval shall be null and void. In order to complete construction, a new building permit shall be applied for and obtained.

3. Any modification, alteration, or addition to any structure, for which a zoning certificate, building permit or other permit under this title is required, shall not be occupied or used prior to the issuance of a certificate of occupancy. (Ord. 2002-02, 1-17-2002)

E. Desist Order:

1. Should the zoning official discover any construction or use of property within the Village in violation of this title, other

Village ordinances or any New Mexico Statute, the zoning official shall attach a "desist order" to the property in a conspicuous place. The zoning official shall attempt to deliver a copy of the "desist order" to the owner or builder of the property. Any "desist order" shall be signed by the zoning official and shall indicate the subject area in which the violation exists. (Ord. 2002-02, 1-17-2002; amd. Ord. 2018-03, 9-11-2018)

2. The removal of a "desist order" before the violation is corrected shall constitute a violation of this title. The continuation of construction or use in violation of a "desist order" shall also constitute a violation of this title.

F. Payment Of Overdue Fees: No zoning certificate or building permit shall be issued by the Village for any lot, parcel or structure until all fees or other assessments and taxes due to the Village by the owner or contractor, whether or not the fees are in connection with said lot, parcel, or structure, have been paid in full.

G. Performance Deposit:

1. The Village shall collect a performance deposit, imposed in accordance with the permit fee and deposit schedule resolutions adopted by Council, for any zoning certificate or building permit application. The performance deposit shall be used to ensure that the following items receive a final inspection by the building official and are completed within twenty four (24) months:

- a. The site has been properly cleaned up and landscaped in accordance with the approved plans.
- b. Compliance with the zoning certificate, encroachment permit and Environment Department permit, if applicable.
- c. Project has been completed in accordance with approved plans and specifications.
- d. A certificate of occupancy has been issued.

2. If the owner/builder fails or refuses to complete the foregoing items, the deposit may be retained. (Ord. 2002-02, 1-17-2002)

3. If the owner and/or builder fails to complete the project within the limits of the original building permit and fails to obtain a time extension, the deposit may be forfeited. Construction time shall not be extended beyond twenty four (24) months. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

4. Should the site fail an inspection, a charge may be added to cover the cost of an additional inspection.

5. Failure of the owner, builder or authorized representative to be present at a final Village inspection may be sufficient grounds for failure of the final inspection.

6. The site cleanup includes adjacent lots where construction trash has blown or been placed.

7. Occupancy of a building without a certificate of occupancy is a violation of this title. (Ord. 2002-02, 1-17-2002)

H. Refunds: All requests for refunds shall be made within ninety (90) days of final issuance of a certificate of occupancy in writing by, for, or on behalf of the original payor or legal representative. A forfeiture of refund shall occur if request is not made within the ninety (90) day period.

1. Zoning Certificate And Building Permit Fees:

a. If the certificate or permit application is withdrawn before any plan review is done, eighty percent (80%) of the permit fee may be refunded. If the written refund request is made after the plans have been reviewed, fifty percent (50%) of the permit fee may be refunded. No refund shall be granted after two (2) years from the permit application date. (Ord. 2007-03, 4-18-2007)

b. A refund shall be issued only if the original payee files a written refund request. Written authorization by the original payee is required to transfer the refund to a legal representative, unless original payee has become deceased or incapacitated. (Ord. 2007-03, 4-18-2007; amd. Ord. 2013-07, 8-13-2013)

2. Performance Deposit:

a. The performance deposit shall be refunded after an inspection determines that compliance with the criteria in subsection G of this section has occurred.

b. If a building permit is suspended or revoked at any time during construction, or a change of contractor has occurred, the Village may retain up to eighty five percent (85%) of the performance deposit of the original payor or legal representative. A new deposit will then be required, unless the revoked or suspended permit is lifted before the two (2) year period has exhausted.

c. After the Planning and Zoning Office has received a written request for the refund, the estimated refund will be made to the payor of the original performance deposit unless such payor provides written authorization to another legal representative, unless original payee has become deceased or incapacitated, to receive the refund. There will be no performance deposit refund if the project is not completed prior to the expiration of the building permit up to a maximum of twenty four (24) months. (Ord. 2007-03, 4-18-2007)

1. See also section 8-1-2 of this Code.¹
2. See also section 8-1-1 of this Code.², as most recently adopted and as amended by the State of New Mexico, shall be used to regulate the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, surfacing, resurfacing, area and maintenance of structures and buildings within the Village.

9-3-5: VARIANCES:

A. Application For Variance: An application for a variance from the provisions of this title shall be filed with the Planning and Zoning Office. At the time of application, the applicant will submit the list of property owners and their mailing addresses within a two hundred foot (200') radius of the subject variance application, excluding rights-of-way. The Village will notify surrounding property owners pursuant to subsection 9-3-6E of this chapter.

B. Types Of Variances:

1. Granting Of Variance: The Council may grant a variance from the terms of this title with respect to:
 - a. Total size, area, bulk, or open space requirements;
 - b. Criteria for buildings;
 - c. Lot area;
 - d. Floor area;
 - e. Height;
 - f. Slope;
 - g. Setbacks; and
 - h. Parking and other building or lot characteristics not associated with the use or uses.
2. Changing Of Uses By Variance Prohibited: The Village Council shall not change the uses, permitted or conditional, as set forth in this title, by variance.
3. Not Eligible:
 - a. Self-inflicted hardships are not eligible for a variance. A "self-inflicted hardship" is the owner or occupant of said property creating their own hardship by violating the code in respect to building or occupying property in violation of this title without first going through the proper legal means of the variance procedure as outlined in this section.
 4. Village Council shall consider variances to the spacing requirements for the sale of alcohol in conjunction with a restaurant use and a church or school.
 - a. Applicants must submit a site plan with the following items listed:
 - (1) Alcohol survey that identifies the spacing variance. If the uses are located on the same property, a measurement shall be shown between the front door of the restaurant and the front door of the protected use.
 - (2) Name, address and contact information for property owner of restaurant use.
 - (3) Name, address and contact information for restaurant operator.
 - (4) Name, address and contact information for church or school.
 - b. Required filing fee.
 - c. Approved applications shall be scheduled for Village Council consideration within thirty (30) days of submittal.

C. Criteria For Council Decision: In considering a variance application, the Council shall consider any recommendations of the commission and the Coordinator and determine whether:

1. An exceptional situation exists whereby the strict application of this title would result in practical difficulties or undue hardship to the owner of such property; or
2. Such variance will result in a public benefit to the citizens of the community; and
3. The variance is consistent with the objectives and purposes of this title and the applicable zoning districts of the Village.

D. Additional Conditions:

1. In granting a variance, the Council shall require the applicant to comply with any conditions deemed to be in the best interests of the Village.
2. The Council may require a performance bond or financial performance guarantees to ensure that conditions imposed on the variance or representations of the applicant are satisfied.

E. Administrative Variance:

1. The Coordinator shall have the discretion to grant a two and one-half percent (2.5%) variance to any dimensional requirement from the provisions of this title, provided the applicant can demonstrate that the request can meet the criteria outlined in subsections C and D of this section. In addition, the Coordinator may add conditions to the applicant's request. If the applicant is not willing to accept condition(s) imposed by the Coordinator, then the Coordinator shall forward the variance to the commission.

2. The applicant of an administrative variance shall submit a letter from the adjacent property owner(s) directly affected by the granting of an administrative variance stating that he/she has no objections to the granting of the administrative variance.

F. Public Recordation: The property owner or applicant shall record the variance with all conditions imposed with the County Clerk and provide a copy of the recorded variance to the Village. (Ord. 2018-03, 9-11-2018; amd. Ord. 2023-05, 6-27-2023)

9-3-6: AMENDMENTS:

A. Authority: A zoning district may be amended, supplemented, changed, modified, or repealed by the Council.

B. Initiation Of Amendment: Any person, group of persons, the commission, or the Council may file an application at the Planning and Zoning Office seeking to change a zoning district. When initiated by any person or persons, a nonrefundable filing fee set by Council resolution, together with such an additional amount as may be determined necessary by the Council to cover administrative costs, including the costs of publication, shall accompany such request.

C. Application For Amendment: Any application for an amendment, supplement, change, modification, or repeal of a zoning district shall contain the following:

1. A description of any land to be rezoned, together with a diagram drawn to scale showing the boundaries of the area requested to be rezoned.

2. A statement of the present zoning and the requested new zoning.

3. A statement of justification for such action, including facts concerning any change of conditions, an error in the original zoning, or the unusual or peculiar suitability of a lot to a certain use.

4. A description of the land uses of property within two hundred feet (200') (not including rights-of-way) in all directions of the boundary lines of the area proposed for change.

5. A statement of the effects of the new zoning change on adjacent areas or uses.

6. The names and addresses of all owners of property contiguous to and within two hundred feet (200') in all directions of the boundaries of the area proposed for change (not including rights-of-way) in digital form compatible with Word, Excel, or Access.

D. Review:

1. Upon filing of any application for a proposed amendment, supplement, change, modification, or repeal of a zoning district, the commission shall review the application at any regular meeting or special meeting.

2. At the commission's discretion, the approval process may continue. (Ord. 2002-02, 1-17-2002)

E. Notification Of Property Owners:

1. Notification by first class mail shall be made to the property owners, both of the area of the lots included in such application and those in the area immediately adjacent to the area included in the application, extending two hundred feet (200') in all directions, excluding rights-of-way. (Ord. 2006-03, 1-19-2006)

2. Included in the notification shall be the means of entering protest, a summary of the proposed amendment, supplement, change, modification or repeal, and the public hearing date, time and location.

F. Public Hearing:

1. The Village shall hold a public hearing on the proposed amendment, supplement, change, modification, or repeal of a zoning district. (Ord. 2002-02, 1-17-2002)

2. The hearing shall be held after the review by the commission. Notice of the time, place, purpose, and location of the public hearing shall be posted and published fourteen (14) days prior to the date set for the hearing in a newspaper of general circulation in the Village. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

3. The Village shall cause notices of the proposed zoning change to be posted on the subject property, or representative parcels, if the proposed change will affect a zoning district at large. (Ord. 2002-02, 1-17-2002)

G. Protests: (Rep. by Ord. 2004-03, 4-20-2004)

H. Decision: The application for zoning district change shall go to the Council with the commission's recommendation. The majority vote of Council shall determine whether application will be granted. (Ord. 2002-02, 1-17-2002)

9-3-7: FEE AND DEPOSIT SCHEDULE:

The building permit fee and deposit schedule resolutions, as adopted and hereafter amended by the Council, shall state the

fees and deposits to be charged. The Village shall charge double the normal fees for work started and signs or banners displayed before a required permit is issued. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

9-3-8: HEARINGS AND APPEALS:

A. Public Hearings:

1. Compliance With Law: Public hearings shall be conducted according to law and this title.
2. Hearing Body; Date And Time: Any public hearing required by this title shall be held by and before the commission on a date and at a time and place established by the Coordinator.
3. Notice Of Hearing:
 - a. Notice of a public hearing shall be made by publication ten (10) days prior to the hearing. The notice shall be posted in locations used for public notices. Publishing shall be in a newspaper of general circulation in the Village.
 - b. Such notice shall state the nature of the action being considered, the location of the property involved, and the date, time and place of the public hearing.
4. Costs: The applicant is responsible for all costs associated with the public hearing, including notice of such hearing which shall be reflected in the application fee.
5. Appearances: The applicant, any resident, or property owner of land within the Village who desires to advocate or oppose an application may appear at a public hearing in person, by agent or attorney or respond in writing.
6. Recommendations: The commission shall make recommendation to the Council on any matter presented to it not later than thirty five (35) days after the hearing.

B. Appeals:

1. General Provisions: Any person aggrieved by any decision of the commission, zoning official, or Coordinator may appeal by written request to the Planning and Zoning Office. The appeal shall first be heard by the commission and then presented to the Council with the commission's recommendation for final decision. A record of the appeal shall be made and the applicant shall be notified in writing of any decision. An appeal of a negative recommendation by the commission shall be heard by the Council, without further commission hearing or recommendation.
2. Time Limit: An appeal shall be filed within thirty (30) days of written notification of the decision of the commission, zoning official, or Coordinator. At the time of appeal application, the applicant will submit the list of property owners within a two hundred foot (200') radius of the subject application, excluding rights-of-way. The Village will notify surrounding property owners pursuant to subsection 9-3-6E of this chapter.
3. Stays Of Proceedings: An appeal stays all proceedings.
4. Notice Of Decision: The official minutes of the Council meetings shall constitute written notice of the decision and the disposition of each appeal. (Ord. 2018-03, 9-11-2018)

9-3-9: VIOLATIONS; PENALTIES:

A. Violations:

1. It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or land or cause or permit the same to be done in violation of this title.
2. When any building or parcel of land regulated by this title is being used contrary to this title, the zoning official may order such use discontinued and the structure, parcel of land, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the zoning official after receipt of such notice and make the structure, parcel of land, or portion thereof, comply with the requirements of this title.
3. Any person who does not build according to the plans and plats approved by the building permit shall be in violation of this title.

B. Penalties:

1. The zoning official and/or Coordinator, on behalf of the Village, may enforce this title in Municipal Court.
2. Any person who violates any provision of this title shall be subject to the penalty provided in section 1-4-1 of this Code. Each day that a violation continues shall be deemed a separate offense.

C. Cumulative Remedies: The remedies provided in this title are cumulative and not exclusive and are in addition to other remedies provided or permitted by law. (Ord. 2018-03, 9-11-2018)

CHAPTER 4

EXISTING BUILDINGS, STRUCTURES AND USES

SECTION:

9-4-1: Determination Of Nonconformities; Continuation

9-4-2: Property Maintenance Code Adopted

9-4-3: Loss Of Nonconforming Status

9-4-4: Enlargements And Modifications

9-4-5: Changes In Nonconforming Use

9-4-6: Nonconforming Open Storage

9-4-7: Inspection Of New Businesses

9-4-1: DETERMINATION OF NONCONFORMITIES; CONTINUATION:

A. Nonconforming Uses: If, on the effective date of this zoning code or of any amendment hereto, any lot, structure, sign, or building is being used in an otherwise lawful manner, in accordance with any applicable conditions of approval and in accordance with the health, safety and welfare of the village and its residents, that does not conform to the provisions of this zoning code, the use shall be deemed a nonconforming use. Such use may continue in the manner and to the extent that it existed on such effective date.

B. Nonconforming Buildings And Structures: Nonconforming buildings and structures are those which were within the village on the effective date of this zoning code or of any amendment hereto and which fail to meet the provisions of this zoning code and the minimum requirements and occupancy standards established by the building codes, as adopted by the state, for the safety and welfare of the public. (Ord. 2002-02, 1-17-2002)

9-4-2: PROPERTY MAINTENANCE CODE ADOPTED¹

The international property maintenance code shall be known as the property maintenance code of the village of Angel Fire. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises. A copy of the property maintenance code is available for review at the building inspection office. (Ord. 2002-02, 1-17-2002; amd. Ord. 2005-01, 1-20-2005)

Notes

¹ 1. See also section 8-1-1 of this code.1:

9-4-3: LOSS OF NONCONFORMING STATUS:

A. Discontinuance Of Use: Any lot, structure, or portion thereof occupied by a nonconforming use which is or hereafter becomes vacant and/or remains unoccupied by a nonconforming use for a period of one hundred eighty (180) days shall not thereafter be occupied, except by a use which conforms to this title and only after being inspected and determined to be in compliance with this title and other village regulations by the code official. (Ord. 2006-09, 8-17-2006)

B. Destruction Of Structure Or Use: If any nonconforming structure or use is, by any cause, destroyed to the extent of seventy five percent (75%) of its market value as determined by the code official, it shall not thereafter be reconstructed as a nonconforming structure or use.

C. Change Of Ownership:

1. A nonconforming use does not continue if the building, structure, or premises upon which it exists is sold.

2. Upon sale, a nonconforming structure must conform to this zoning code or a conditional use permit applied for and granted for the nonconforming use to continue to be occupied. (Ord. 2002-02, 1-17-2002)

9-4-4: ENLARGEMENTS AND MODIFICATIONS:

A. Enlargements And Modifications Prohibited; Maintenance And Repair: Except as hereinafter provided, a nonconforming use shall not be enlarged, expanded, or altered except to make the use conform to this zoning code. Maintenance and minor repairs necessary to keep a nonconforming use in a safe and continued usable condition are permitted.

B. Additions: All additions to nonconforming structures shall conform to this zoning code. Additions to structures housing nonconforming uses that increase the area of a nonconforming use are not permitted. (Ord. 2002-02, 1-17-2002)

9-4-5: CHANGES IN NONCONFORMING USE:

A nonconforming use of a structure or parcel of land shall not be changed except to a conforming use, and thereafter, the use may not revert to the former use or become any other nonconforming use. (Ord. 2002-02, 1-17-2002)

9-4-6: NONCONFORMING OPEN STORAGE:

Any land within the village used for open storage, unlicensed landfill, or a junkyard and found to adversely affect the public health, safety, or welfare of the village shall be discontinued, abated or made to conform to the provisions of this zoning

code. (Ord. 2002-02, 1-17-2002)

9-4-7: INSPECTION OF NEW BUSINESSES:

The premises (new or existing) to be occupied by any new business shall be inspected by the code official prior to occupancy. All inspections must be passed. (Ord. 2002-02, 1-17-2002)

CHAPTER 5

CONDITIONAL USES

SECTION:

9-5-1: Permit Requirements

9-5-2: Amendment To Conditional Use

9-5-1: PERMIT REQUIREMENTS:

A. Permit Required: Conditional use permits are required for:

1. Any use requiring special conditions to comply with this zoning code.
2. Any uses involving or producing a hazardous activity.
3. Churches, schools, public and quasi-public utilities, parks, greenbelts, golf course, planned unit developments (PUDs), bed and breakfasts, adult use businesses, grazing areas, and off site parking lots.
4. Any uses that may be harmonious under special conditions and in specific locations within a zone, but may not be allowed under the general conditions of the zone as stated in this zoning code. (Ord. 2002-02, 1-17-2002)

B. Application For Permit: All conditional use permit applications shall be submitted to the planning and zoning office. A detailed site plan identifying all proposed structures, driving aisles, parking areas, landscaping, open space/snow storage areas, signage, lighting, and other documents as required shall accompany all applications. At the time of application, the applicant will submit the list of property owners within a two hundred foot (200') radius of the subject application, excluding rights of way. The village will notify surrounding property owners pursuant to subsection 9-3-6E of this zoning code. (Ord. 2004-03, 4-20-2004)

C. Council Decision:

1. The council may impose conditions and safeguards to protect and enhance the health, safety, and welfare of the village.
2. The use will otherwise comply with zoning code provisions for such use. The council shall itemize and describe all such conditions on the use. All such conditions shall be affixed to and made a part of the site plan.

D. Restrictions On Certain Approvals: Any conditional use permit applied for that may create unusual traffic hazards, noise, dust, fumes, odors, smoke, vapor, vibration, glare, or industrial waste disposal problems shall only be approved with the following conditions:

1. The use shall be operated within an enclosed structure.
2. Noise, dust, fumes, odors, smoke, vapor, vibration, glare, or waste shall be confined to the lot in which the use is permitted.
3. Outdoor storage, equipment, and refuse areas shall be concealed from the view of abutting residential districts and public rights of way.
4. Compliance shall be made with appropriate county, state and federal environmental and other regulations.

E. Expiration And Revocation Of Permit:

1. Conditions of approval may be amended or revoked by the council if the conditions are not met and/or maintained.
2. If not exercised, a conditional use permit shall expire at the end of six (6) months from the date of its approval. A conditional use permit is exercised when the use is established or when a building permit is issued and substantial construction accomplished. If a permit is abandoned or discontinued for a period of six (6) months, it expires unless reauthorized by the council. The conditional use permit remains valid for the use as approved and if it complies with the conditions of its approval.
3. A conditional use permit may be revoked if the conditions of approval are not satisfied, or upon any change of ownership, lease, or use of the property. (Ord. 2002-02, 1-17-2002)

9-5-2: AMENDMENT TO CONDITIONAL USE:

A request for an amendment to an approved conditional use permit, including any modification of a building or use of a property, shall be submitted to the planning and zoning office, accompanied by supporting information as identified by the director. The commission shall review the amendment and make a recommendation to the council to: a) grant; b) deny; or c)

modify such amendment request with any conditions deemed appropriate to continue the conditional use permit, as amended. (Ord. 2002-02, 1-17-2002)

CHAPTER 6

NUISANCES

SECTION:

9-6-1: Statement Of Nuisance Conditions

9-6-2: Dangerous Buildings; Order To Remove; Removal By Village

9-6-3: Penalty For Failure To Remove

9-6-1: STATEMENT OF NUISANCE CONDITIONS:

A. Property Nuisance; Prohibited Conditions: It shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of any real property in a manner where any of the following conditions are found to exist thereon, except as may be allowed by any other provision of law, including provisions of ordinances of the village: (Ord. 2012-01, 1-10-2012)

1. Dirt, Litter And Debris: The accumulation of dirt, litter or debris.
2. Boxes, Bins And Similar Materials: The accumulation and/or storage of boxes, bins, containers, lumber, junk, trash, salvage materials or other similar materials without first providing proper and tight buildings, fences or screened containment areas for storage of such material as specified in this title.
3. Nuisances Dangerous To Children: Attractive nuisances dangerous to children, including abandoned, broken or neglected equipment, machinery, appliances, refrigerators and freezers, as well as hazardous pools, ponds and excavations and/or dangerous containers.
4. Furnishings And Appliances: Broken or discarded furniture, household equipment, appliances, and furnishings, or shopping carts.
5. Weeds: Growth of weeds, noxious weeds, vegetation or other nuisances which:
 - a. Are likely to harbor flies, insects, rodents or vermin.
 - b. Are dangerous to public health, safety and welfare.
 - c. Are obstructing a necessary view of drivers on public streets, roads, clear sight triangles, or driveways.
6. Hazardous Trees: Hazardous trees as follows:
 - a. Dead trees; fallen trees across property lines.
 - b. Trees leaning toward a target (i.e., a structure, etc.) on adjoining property which pose a clear and present threat to health and/or property.
 - c. Trees and/or portions thereof that possess significant structural damage, which pose a clear and present threat to health and/or property.
 - d. Diseased or infested trees that present a threat to live trees on adjacent properties. (Ord. 2005-01, 1-20-2005)
 - e. Trees suffering from stunted growth due to density of tree stands.
 - f. Trees and vegetation that represent a fire hazard. (Ord. 2010-05, 4-20-2010)
7. Vehicle Parts: Vehicle parts or other articles of personal property which are abandoned or left in a state of partial construction or repair.
8. Inoperable Or Abandoned Mobile Homes, Trailers, Vehicles, Etc.: Inoperable or abandoned mobile homes, recreational vehicles, utility trailers, unmounted camper tops, boats, horse trailers, cars, trucks and airplanes or other vehicles that are parked or stored in violation of section 9-7-9 of this title.
9. Graffiti: Graffiti on the exterior of any building, fence or other structure.
10. Odors; Attracting Insects Or Rodents: Solid waste, automobiles not in operating condition, and wastewater, or any conglomeration of residue thereof which emits odors or serves as a feeding or breeding place for flies, insects or rodents and which, in the opinion of the code compliance officer, is unsightly or dangerous to public health, safety or welfare. (Ord. 2005-01, 1-20-2005)
11. Unsafe Buildings: Unsafe buildings, foundations, or other structures which are partially destroyed or collapsed, left in a state of partial construction, or open or abandoned. (Ord. 2008-05, 7-15-2008)
12. Water Runoff:

a. Any water runoff, beyond the historical flows discharged from any private property onto adjacent public or private property.

b. All water runoff discharged from private property onto a public right of way that results in a mud bog, mudflow, washout, erosion or similar scouring of any part of the right of way, including improved roadways and drainage facilities due to the increase of volume and/or velocity. (Ord. 2012-01, 1-10-2012)

13. Septic Tanks Or Similar Fixtures: Liquid waste, wastewater, solids, or seepage leaking from septic tanks, holding tanks, leach lines or similar fixtures. (Ord. 2005-01, 1-20-2005)

14. Excavations: Excavations that are open, abandoned, or unfinished. (Ord. 2008-05, 7-15-2008)

B. Declaration Of Nuisance; Abatement Generally: Any property found to be maintained in violation of subsection A of this section is hereby declared to be a public nuisance and shall be abated as provided under subsections C and D of this section. The procedures for abatement set forth in this section shall not be exclusive and shall not in any manner limit or restrict the village from enforcing other village ordinances or abating public nuisances in any other manner provided by law.

C. Order To Remove Or Remedy Nuisance: Whenever any nuisance prohibited in this section shall be found to exist upon private property within the village, the code compliance officer shall order, in writing, the owner, lessee, occupant or person who permits such nuisance to exist to remove or remedy the nuisance within ten (10) days after service of such notice upon them, unless other provisions of this code or other village ordinances provide a longer remedy period.

D. Filing Of Complaint; Abatement By Village: If any such property owner or the person who permits such nuisance to exist shall fail to comply with such order, any person interested may file a complaint for violation of this section against such person, or the village may elect to cause the nuisance to be abated by removal of the nuisance and shall have a lien against the property for the cost of such removal.

E. Penalty: Failure to comply with a valid order of the code compliance officer shall constitute a petty misdemeanor within the meaning of New Mexico Statutes Annotated, 1978, section 30-8-1, and, upon a finding of a violation of this section, the person committing the violation may be punished in accordance with section 1-4-1 of this code; provided, that any fine shall be not less than fifty dollars (\$50.00). Each day that the prohibited condition is not corrected or remedied shall constitute a separate offense, and the court shall impose a fine on a per day basis for each day that the violation is maintained. Application of the penalty set out in this subsection shall not be held to preclude the forced removal of prohibited conditions. (Ord. 2005-01, 1-20-2005)

9-6-2: DANGEROUS BUILDINGS; ORDER TO REMOVE; REMOVAL BY VILLAGE:

A. Authority Of Council: Whenever any building or structure is ruined, damaged or dilapidated, or any premises is covered with ruins, rubbish, wreckage or debris, the village council may by resolution find that the ruined, damaged and dilapidated building, structure or premises is a menace to the public comfort, health, peace or safety and require the removal from the village of the building, structure, ruins, rubbish, wreckage or debris.

B. Service Of Notice: A copy of the resolution shall be served on the owner, occupant or agent in charge of the building, structure or premises. If the owner (as shown by the real estate records of the county clerk), occupant or agent in charge of the building, structure or premises cannot be personally served within the village, service shall be by posting a copy of the resolution on the building, structure or premises and publishing a copy of the resolution one time.

C. Compliance With Order; Filing Of Objection: Within ten (10) days of the service as provided in subsection B of this section, the owner, occupant or agent in charge of the building, structure or premises shall commence removing the building, structure, ruin, rubbish, wreckage or debris, or file a written objection with the village clerk asking for a hearing before the village council.

D. Hearing On Objection: If a timely written objection is filed as provided in subsection C of this section, the village council shall:

1. Fix a date for a hearing on the resolution and the objection;
2. Consider all evidence for and against the resolution at the hearing; and
3. Determine if the resolution should be enforced or rescinded.

E. Appeals: Any person aggrieved by the determination of the village council may appeal to the district court as provided by law.

F. Removal By Village: If the owner, occupant or agent in charge of the building, structure or premises fails to commence removing the building, structure, ruin, rubbish, wreckage or debris:

1. Within ten (10) days after service of the resolution as provided in subsection B of this section;
2. Within five (5) days of the determination that the resolution shall be enforced; or
3. After the district court enters judgment sustaining the determination of the village council; the village may remove or contract for the removal of the building, structure, ruin, rubbish, wreckage or debris at the cost and expense of the owner. The reasonable cost of the removal shall constitute a lien against the building, structure, ruin, rubbish, wreckage or debris and against the lot or parcel of land from which it was removed. The lien shall be foreclosed in the manner provided by law. (Ord. 2005-01, 1-20-2005)

9-6-3: PENALTY FOR FAILURE TO REMOVE:

A. If the owner, occupant or agent in charge of the building, structure or premises fails to commence removing the building, structure, ruin, rubbish, wreckage, debris or fire hazard vegetation within the time specified in subsection 9-6-2F of this chapter, each owner, occupant or agent in charge who has actual notice of the resolution as provided in section 9-6-2 of this chapter is guilty of a misdemeanor. Each day for which this removal has not been commenced shall be a separate violation punishable as provided in section 1-4-1 of this code. (Ord. 2010-05, 4-20-2010)

B. The fact that assessments have been made against property as provided for in this chapter shall not prevent the owner, agent or lessee from being punished by fine or jailed under the general provisions of this code. Such fine or penalty may be imposed upon those found guilty of violating the provisions of this chapter in all cases, whether an assessment has or has not been made in accordance with the provisions of this chapter. (Ord. 2005-01, 1-20-2005)

CHAPTER 7

SUPPLEMENTAL REGULATIONS

SECTION:

9-7-1: Application Of Provisions

9-7-2: Compliance With State And Federal Regulations

9-7-3: Tree Removal

9-7-4: Off Street Parking Lots

9-7-5: Landscaping

9-7-6: Home Occupations

9-7-7: Propane Tanks

9-7-8: Exterior Lighting

9-7-9: Vehicle Storage

9-7-10: Fences And Walls

9-7-11: Architectural Appropriateness

9-7-12: Private Drives

9-7-13: Fuel Modification

9-7-14: Water Rights Requirements

9-7-15: Development Requirements For Commercial And Residential Construction

9-7-16: Implementation Of The New Mexico Cannabis Regulation Act

9-7-1: APPLICATION OF PROVISIONS:

The requirements and regulations of this chapter shall apply in all zoning districts except as otherwise indicated. (Ord. 2002-02, 1-17-2002)

9-7-2: COMPLIANCE WITH STATE AND FEDERAL REGULATIONS:

Compliance with New Mexico liquid waste disposal regulations and other applicable State and Federal regulations, as well as section 8-1-3 of this Code, is required. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

9-7-3: TREE REMOVAL:

Trees may be removed for a building site, solar gain or to maintain a healthy forest without a permit. Clear cutting a lot is not allowed. If the lot and general area are forested, then the lot should maintain that general appearance. (Ord. 2002-02, 1-17-2002)

9-7-4: OFF STREET PARKING LOTS:

The following provisions apply to all required off street parking lots of three (3) or more parking spaces within multi-dwelling unit projects and all commercial projects: (Ord. 2006-09, 8-17-2006)

A. Commercial Parking Lot Standards:

1. Specifications:

a. Each off street parking space shall consist of a minimum area measuring nine feet (9') wide by eighteen feet (18') long and seven feet (7') high and have a legal, unobstructed area for access to a street.

b. Areas within the street right-of-way shall not be used for required parking.

c. Driving aisles are required to access all parking spaces. (Ord. 2002-02, 1-17-2002)

d. Driving aisles utilized with ninety degree (90°) angled parking shall be a minimum of twenty five feet (25') in width. Two-way driving aisles utilized with angled parking shall be a minimum of twenty five feet (25') in width.

e. One-way driving aisles utilizing angled parking shall use the following table:

Stall Angle	Stall Dimensions	Aisle Width
30 degrees	9x19 feet	13 feet
45 degrees	9x19 feet	15 feet
60 degrees	9x19 feet	20 feet

(Ord. 2006-09, 8-17-2006)

2. Spaces For Persons With Disabilities:

a. Two percent (2%) of the spaces required, but not less than one space shall be set aside for the physically disabled;

b. Parking spaces for the physically disabled shall consist of an area of not less than thirteen feet (13') in width by eighteen feet (18') in length. Two (2) adjacent spaces must share a five foot (5') aisle;

c. Parking spaces for the physically disabled shall be prominently marked and shall be located as close to an accessible entrance as possible. (Ord. 2002-02, 1-17-2002)

3. Grading: Parking lots shall be graded for proper drainage away from the street. All parking lots located on private property for public use shall be free of potholes, uneven surfaces and other obstructions, excluding wheel stops and exterior light fixtures. (Ord. 2005-01, 1-20-2005)

4. Surface Materials: All commercial off street parking and vehicular use areas shall be surfaced with asphalt, concrete, or similar materials.

5. Circulation Patterns And Spaces To Be Marked: All parking lots shall be striped according to the site plan approved by the village identifying circulation patterns and parking spaces.

6. Wheel Stops: Wheel stops are required on those parking spaces which face a building or a walkway and that are at the same grade as the parking space.

7. Ingress And Egress: Point of ingress/egress to parking lots from a village right of way shall be established by encroachment permits issued by the public works department.

8. Lighting: Lighting facilities, if provided, shall be arranged so that lights neither unreasonably disturb nearby properties nor interfere with driver vision and shall comply with the New Mexico night sky protection act

9. Snow Storage: All commercial parking lots shall provide an area for snow storage that is not part of the required parking lot area. (Ord. 2002-02, 1-17-2002)

10. Signage: Directional signage for parking lots and areas shall not exceed one square foot and shall not exceed two feet (2') in height.

B. Multi-Dwelling Parking Lot Standards:

1. Specifications:

a. Each off street parking stall shall consist of a minimum area measuring ten feet (10') wide by twenty feet (20') long and seven feet (7') high and have a legal, unobstructed area for access to a street.

b. Areas within the street right of way shall not be used for required parking.

c. Private drives shall be a minimum of twenty five feet (25') in width, no vehicular parking is permitted on a private drive. Parallel parking is permitted outside of the private drive. Minimum parallel parking stall shall be ten feet (10') wide by twenty five feet (25') long.

d. If a garage(s) is to be used to meet the minimum number of parking spaces required, then the garage(s) shall be set back twenty feet (20') from the edge of the private drive. This setback area is not eligible to be included in meeting the minimum parking requirements.

e. For garage credit of one parking space, an interior garage stall for a single vehicle garage shall have a minimum dimension of thirteen feet (13') wide by twenty four feet (24') long.

f. For garage credit of two (2) parking spaces, interior garage stalls for a two (2) vehicle garage shall have a minimum dimension of twenty four feet (24') wide by twenty four feet (24') long.

g. Guest parking stalls must be clustered throughout the project and spread evenly throughout the project for the convenience of the guests.

h. Setback areas in front of garages cannot be counted as required guest parking.

2. Parking For Persons With Disabilities:

a. Two percent (2%) of the parking stalls required, but not less than one stall shall be set aside for the physically disabled;

b. Parking stalls for the physically disabled shall consist of an area of not less than thirteen feet (13') in width by eighteen feet (18') in length. Two (2) adjacent stalls must share a five foot (5') aisle;

c. Parking stalls for the physically disabled shall be prominently marked and shall be located as close to an accessible entrance as possible.

3. Grading: Parking lots and private drives shall be graded for proper drainage away from public rights of way. All parking lots located on private property for public use shall be free of potholes and other obstructions, excluding wheel stops and exterior light fixtures.

4. Surface Materials: All multi-dwelling off street parking and vehicular use areas shall be surfaced with a minimum of six inches (6") of base course.

5. Circulation Patterns And Spaces To Be Marked: All parking lots shall be striped according to the site plan approved by the village identifying circulation patterns and parking stalls.

6. Wheel Stops: Wheel stops are required on those parking stalls which face a building or a walkway and that are at the same grade as the parking stall.

7. Ingress And Egress: Points of ingress/egress to parking lots from a village right of way shall be established by encroachment permits issued by the streets and drainage department.

8. Lighting: Light standards and fixtures, if provided, shall be arranged so that lights neither unreasonably disturb nearby properties nor interfere with driver vision and shall comply with the New Mexico night sky protection act. Refer to section 9-7-8 of this chapter for additional lighting requirements.

9. Snow Storage: All multi-dwelling parking lots/areas shall provide an area for snow storage that is not part of the required parking lot area.

10. Signage: Directional signage for parking lots and areas shall not exceed one square foot and shall not exceed two feet (2') in height. (Ord. 2006-09, 8-17-2006)

C. Location Of Parking:

1. All off street parking shall be located on the same property for which the parking is required.

2. Off site or shared parking is permitted as a conditional use using a cross parking easement, provided the off site parking area contiguous to the subject property and the two (2) land uses have different peak traffic times. (Ord. 2002-02, 1-17-2002; amd. Ord. 2006-09, 8-17-2006)

Notes

¹ 1. NMSA § 74-12-1 et seq.1. Refer to section 9-7-8 of this chapter for additional lighting requirements.

9-7-5: LANDSCAPING:

A. Purpose: Landscaping is required to enhance the attractiveness of the village and improve the quality of life for its citizens and visitors. This section seeks to protect residential developments from surrounding uses, soften harsh expanses of pavement, and screen undesirable views.

B. Scope: No landscaping requirements will be regulated by this zoning code for single-family homes built in an R-1 district. However, the exterior property areas in all zones shall be maintained as covered in the property maintenance code of the village ¹

C. Landscaping Prior To Certificate Of Occupancy Issuance: Required landscaping shall appear on the site plan and be installed before a certificate of occupancy (CO) is issued, and thereafter maintained properly. (A temporary CO may be requested if weather prevents planting and all other inspections have been passed.)

D. Amount Of Landscaped Area: Businesses shall landscape at least six (6) square feet for each linear foot of road frontage up to the minimum square footage of open space required in that district.

E. Types Of Vegetation:

1. The use of drought tolerant plants is required.

2. Landscaping materials shall be of trees (1 inch caliper minimum) and shrubs (5 gallon minimum). The use of noxious weeds as landscaping material is prohibited.

F. Maintenance Requirements: All landscaping must be maintained. Property owners are responsible for the

maintenance of the right of way contiguous to their property including the driveway culvert. (Ord. 2002-02, 1-17-2002)

Notes

1. See section 9-4-2 of this title.1.

9-7-6: HOME OCCUPATIONS:

A. Purpose: The purpose of this section is to allow businesses, which do not change the residential character of the premises or neighborhood, are compatible with other homes on adjacent properties, do not draw customers to the home, and do not adversely affect the interests, quality of life, or equity of other property owners in the neighborhood. (Ord. 2005-01, 1-20-2005)

B. Definitions:

DWELLING: Includes an enclosed garage that is an accessory building to a dwelling unit.

ELECTRICAL INTERFERENCE: Equipment or processes which create visible or audible interference in any radio or television receivers off the premises, or cause fluctuations in line voltage off the premises.

HOME OCCUPATION: A commercial activity of the occupant of a dwelling clearly incidental, subordinate, and secondary to the use of the structure as a dwelling in a residential area, and that does not change the residential character of the site or buildings on the site.

C. Performance Standards: A business conducted within a dwelling shall qualify as a home occupation if it meets the following standards:

1. Compliance With Laws: Complies with all federal, state and local codes.
2. Residential Character Maintained: The residential character of the lot and the dwelling unit shall be maintained. No change in the outside appearance of the building or premises, or any construction feature or alteration not of a residential character, shall be allowed as a result of the home occupation, except as necessary to comply with an accessibility law.
3. Home Occupation Within Dwelling: All activity of the home occupation shall be carried on entirely within the dwelling and shall occupy a maximum of six hundred (600) square feet or twenty five percent (25%) of dwelling's heated area, whichever is less.
4. Exterior Displays; Outside Storage: The goods, stock in trade, or other commodities associated with the home occupation shall neither be displayed nor visible from a location off the site on which the business is being conducted. There shall be no warehousing of materials/supplies outside the dwelling hosting the home occupation.
5. Advertising: There shall be no show windows, window displays or advertising signs or structures on or near the site designed to attract customers, clients or the general public to the premises. The only sign permitted on a residence hosting a home occupation shall have a maximum of two (2) square feet and state only the resident's name and the street and number.
6. Traffic Restricted: The home occupation may not generate any additional amount of vehicular or pedestrian traffic. Business related vehicles may only park in the existing garage or an existing driveway. Parking of vehicles is not permitted on any public roadway.
7. Noise, Erosion, Vibration, Etc.: No equipment or process shall be used which has objectionable operational characteristics or effects, or which would identify the premises as serving a nonresidential character. These can include, but are not limited to, noise, erosion, vibration, fumes, odors, dust, smoke, lighting, effluent or electrical interference detectable to normal senses off the site of the dwelling hosting the home occupation.
8. Hazardous Activity Prohibited: No hazardous activity shall be permitted as part of a home occupation. This includes processes associated with the product of the home activity or storage of materials capable of generating fire, toxicity, or explosion. (Ord. 2002-02, 1-17-2002)

9-7-7: PROPANE TANKS:

A. Aboveground Or Underground Tanks: All propane tanks may be installed aboveground or underground. Tanks installed aboveground shall be screened from view by landscaping or by fencing as regulated by state statutes.

B. Location: A propane tank may not be located on or in a setback. The location of a propane tank shall be identified on the site plan.

C. Buried Tanks: All propane tanks that are buried shall require aboveground valve protection. (Ord. 2002-02, 1-17-2002)

9-7-8: EXTERIOR LIGHTING:

A. General Provisions:

1. Exterior lighting shall be low lumens and pointing downward so as to minimize night sky illumination and avoid disturbance of adjacent property owners. All on site wiring shall be underground.

- a. Temporary power poles may be utilized for a period of twelve months with approval from the Village Manager or

Director of Planning and Zoning. This temporary allowance may be extended one time for an additional twelve months. Consideration for this request shall be contingent upon the utility service provider's ability to install underground wiring in a timely manner.

2. Freestanding lighting in all Residential Zones shall have a maximum height of eight feet (8') and, in all Commercial Zones, a maximum height of twenty feet (20').

3. No sodium yard lights and no mercury vapor outdoor lighting fixtures are permitted.

4. All outdoor lighting fixtures shall be shielded, top and sides, to sixty degrees (60°) below the light source.

5. Outdoor lighting fixtures not meeting these provisions shall be allowed if the fixture is extinguished by an automatic shutoff device between the hours of eleven o'clock (11:00) P.M. and sunrise. (Ord. 2002-02, 1-17-2002)

6. Lighting systems used for lighting Federal and State flags within the C-1, C-2, O-1 or O-2 Zones are exempt from general provisions of subsections A1 through A5 of this section. (Ord. 2005-01, 1-20-2005)

B. Plan Required: Exterior lighting plans shall be included in plans required to be submitted to the Planning and Zoning Office in a site plan or a zoning certificate application.

C. Recreational Facilities: No outdoor recreational facility, whether public or private, shall be illuminated after eleven o'clock (11:00) P.M. except to conclude any recreational or sporting event or other activity in progress prior to eleven o'clock (11:00) P.M.

D. Parking And Street Areas: Lighting required in parking and street areas shall be in accordance with this title.

E. Existing Lighting: Lighting in existence and operable on the effective date of this title is permitted unless and until replaced or modified. Replaced or modified lighting shall conform to the provisions of this title. (Ord. 2002-02, 1-17-2002; amd. Ord. 2005-01, 1-20-2005; Ord. 2023-03, 3-14-2023)

9-7-9: VEHICLE STORAGE:

A. Prohibited Vehicles:

1. Wrecked, Inoperable Vehicles: No owner of a lot nor any other person shall be permitted to store wrecked or inoperable vehicles on any lot or on any street.

2. Oversized Vehicles: No oversized vehicle is to be left unattended on any street. An oversized vehicle is any vehicle ninety inches (90") in width. (Ord. 2002-02, 1-17-2002)

B. Screening Requirements: RVs, motorized construction equipment, travel trailers, watercrafts, horse trailers, or utility trailers that measure more than four feet (4') high as measured from the ground or more than twenty feet (20') in length and any other vehicle parked on any residential lot, unless garaged must be operable and registered. They must be parked on the side or behind the residence and screened from view from any adjacent street or residence.

1. Screening by wooden fences or non-deciduous trees or combination of both of sufficient height to screen objects located inside from normal public view and must meet all setback requirements of this title.

2. Walls or fences that are in harmony with the house style and must meet setback requirements of this title.

3. A zoning permit is required prior to any placement of screening. (Ord. 2019-03, 4-16-2019)

9-7-10: FENCES AND WALLS:

A. Permit Required: Fences and walls require a permit and/or must be included on a site plan.

B. Height Restrictions:

1. Fences and walls shall have a maximum height in Residential Zones of six feet (6') and shall have a maximum height in Commercial Zones of eight feet (8').

2. Wall and fence height will be measured from ground level; if there is a difference in grade due to a step or retaining wall, then the height shall be measured for the height from the high side.

C. Materials Restricted:

1. Opaque fences and walls and chainlink fencing shall not be used around the perimeter of the lot, and the required open space shall not contain any area enclosed by solid fencing.

2. The use of barbed wire, concertina wire, razor ribbon, or other barbed type obstacles is prohibited. (Ord. 2002-02, 1-17-2002)

3. Intermediate wood horizontal guards in railings shall not be permitted on elevated platforms over thirty inches (30") high on balconies, decks, elevated catwalks and walkways. (Ord. 2008-05, 7-15-2008)

D. Gates: Entry gates shall be located behind the front yard setback line and shall not exceed fourteen feet (14') in height and twenty feet (20') in width. (Ord. 2002-02, 1-17-2002)

E. Retaining Walls Over Four Feet: (Rep. by Ord. 2005-01, 1-20-2005)

F. Swimming Pools And Hot Tubs: All outdoor swimming pools, jacuzzis, and hot tubs shall be completely enclosed by a

wall or fence at least six feet (6') in height with self-closing devices on all access gates. Jacuzzis and hot tubs may use locking covers.

G. Tennis Courts: Tennis courts may have chainlink fences a maximum height of twelve feet (12'), provided they shall be located to the side or to the rear of the principal building.

H. Opaque Fences And Walls Required: Screening by an opaque fence or wall of sufficient height to screen objects located inside from normal public view shall be required for:

1. Service yards (not over 6 feet high).
2. Fuel tanks.
3. Trash containers.
4. Utility substations. (Ord. 2002-02, 1-17-2002)

9-7-11: ARCHITECTURAL APPROPRIATENESS:

The following provisions shall apply to all Village zoning districts, except where specifically referenced, to only Residential or only Commercial Zoning Districts:

A. Colors, Styles And Materials: Colors, styles and materials of all structures and buildings shall be aesthetically compatible with the Rocky Mountain environment of the Village. Exterior details should be used to enhance the facade of all new commercial structures. Features such as prominent entryways featuring stone, large timbers and glass, awnings, and moldings are all encouraged.

B. Building Scale: New commercial buildings should be in proportion to adjacent structures. For proposed structures that are significantly larger than adjacent structures, design elements should be incorporated to make the building compatible with the smaller buildings.

C. Multiple Building Projects: For commercial projects with multiple buildings, the structures should be designed with a common architectural theme using common design elements and same materials.

D. Building Materials: For new commercial construction, the following materials are required for exterior finishes: natural or cultured stone, stucco, wood, brick and textured concrete masonry. These materials may be used in architecturally compatible combinations. (Ord. 2002-02, 1-17-2002)

E. Building Roofs: A minimum twelve inch (12") overhang is required unless inappropriate to the house style. Parapet walls shall not require an overhang. Roofs shall have muted colors and be made from or of nonreflective and nonglossy material that has a low sun reflective value (SRV) of less than forty percent (40%), as shown by manufacturer's test data. When such data is unavailable, compliance will be determined by a comparison of samples where data is available. Reflective roofing materials are not permitted on any permanent structure. Reflective materials include not only roof coverings but also include protuberances such as vent pipes and air management equipment from the roof structure. Such protuberances must be painted to match or complement the color of the roof covering material. Paint must be nonreflective/nonglossy and have an SRV of forty percent (40%) or less. Regardless of SRV rating, all roofs that are white, gray, silver, aluminum or similar in color and reflectance are prohibited. All wooden shake shingle roof material or similar are prohibited. Test method standards: ASTM E903, C1549 total solar reflectance (%) percentage value SRV or ASTM E1980 for solar reflectance index SRI. (Ord. 2008-05, 7-15-2008; amd. Ord. 2013-07, 8-13-2013)

F. Mechanical Design: All heating and other mechanical equipment mounted on the building must be screened from view by an architectural element of the building or painted to match the building.

G. Building Service Areas: Areas for loading and unloading, trash collection and disposal, and utility services must be located away from or screened from view from all public rights-of-way. All automobile service bays must be located to the rear of the building. All screening treatment should be made of and colored the same as the predominant materials and color of the building. (Ord. 2002-02, 1-17-2002)

H. Intermediate Wood Horizontal Guards: Intermediate wood horizontal guards in railings shall not be permitted on elevated platforms over thirty inches (30") high on balconies, decks, elevated catwalks and walkways. (Ord. 2008-05, 7-15-2008)

9-7-12: PRIVATE DRIVES:

A. Private roadways and driveways shall not be constructed so as to drain onto the street. Driveways shall not have a slope that exceeds twelve percent (12%), unless the lot configuration requires a driveway slope exceeding twelve percent (12%), in which event, parking space shall be provided for a minimum of two (2) vehicles out of the street right-of-way unless an encroachment permit is requested and granted. See subsection 9-7-4A1a of this chapter for parking space dimensions. Said parking spaces shall be constructed to provide a minimum of six feet (6') from the edge of the roadway to the parked vehicle to allow for snow removal. (Ord. 2005-01, 1-20-2005)

B. Commercial uses may be located along private roadways within Commercial Districts. If said private roadway or driveway is a cul-de-sac, no commercial lot or use shall be more than five hundred feet (500') from a dedicated right-of-way. (Ord. 2002-02, 1-17-2002)

C. Any commercial property owner requiring a utility connection that requires the cutting into pavement, concrete or compacted material for the purpose of acquiring service, shall be responsible for the replacement of material and

compaction of same. (Ord. 2006-03, 1-19-2006)

9-7-13: FUEL MODIFICATION:

A. Purpose: This section is intended to provide property owners with fuel modification measures to be used to create an area around structures, property, and the community known as defensible space. Defensible space provides firefighters a working environment that allows them to protect privately held land within the community from encroaching wildfires as well as minimizing the chance that a structure fire will escape to the surrounding wildland. This section applies to any person or entity who owns, leases, controls, operates, or maintains any structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass covered lands, or any land that is covered with flammable material, and located within the Village of Angel Fire. In addition, this section is not to exclude fuel modification of vacant lots where no structure is present for the reasons of not negatively impacting a neighboring property's defensible space and to reduce the overall fire hazard in that area.

B. Definitions:

dbh: Diameter at breast height.

DEAD/DOWN: Any vegetation to include trees, shrubs, limbs that is either standing or on the ground and is no longer living. Standing dead is often referred to as "snags".

DEFENSIBLE SPACE: 1. A natural and/or landscaped area around privately held land to include structures, vacant lots, and common areas within the community that has been maintained and designed to reduce fire danger. Defensible space reduces the risk that fire will spread from one area to another, including to a structure.

2. The area within the perimeter of a parcel where basic wildfire protection practices are implemented, providing the key point of defense from an approaching wildfire or escaping structure fire.

FUEL: Vegetation and combustible man-made objects are fuel for fires. Even the structure itself is considered fuel. Research and experience have shown that fuel reduction decreases fire danger and increases the survivability of structures, surrounding vegetation and ultimately human life. Good defensible space allows firefighters to protect and save property safely without facing unacceptable risk to their lives. Fuel reduction through vegetation management is the key to creating good defensible space.

FUEL MODIFICATION: Creating defensible space through vegetation management means reducing the amount of fuel, providing separation between fuels, and/or reshaping retained fuels by trimming. Defensible space can be created by removing dead vegetation, separating fuels, and pruning lower limbs. By arranging trees, shrubs, and other fuels in a way that makes it difficult for fire to transfer from one fuel source to another does not mean cutting down all trees and shrubs, or creating a bare ring of earth across the property.

GROUND FUELS: Loose surface litter on the soil surface, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches that have not yet decayed enough to lose their identity; also grasses, forbs, low and medium shrubs, tree seedlings, heavier branches and downed logs.

INTERMIX: Where structures and vegetation intermingle.

LADDER FUELS: Flammable materials between the ground and the tree canopy (a single tree or stand of trees) that can carry a fire vertically between or within a fuel type. Ladder fuels are typically composed of immature trees, shrubs, or branches.

STRUCTURE: Any structure used for support or shelter of any use or occupancy.

WILDLAND URBAN INTERFACE (WUI): The zone of transition between unoccupied land and human development.

C. General: The wildland fire risk in the Village of Angel Fire requires and recommends various degrees of fuel modification which have been established into four (4) separate zones and pertain specifically to properties with structures. Together these zones range from zero feet (0') to one hundred plus feet (100'+) and have mandatory requirements and recommendations listed in subsection I of this section. Vacant lot requirements and recommendations are in subsection H of this section.

D. Treatment: Fuels are all combustible materials within the wildland urban interface or intermix including, but not limited to, vegetation and structures. Treatment includes limbing, lopping, pruning or cutting. Specific treatments will be determined by the Angel Fire Chief of Fire/EMS, or his/her designee on a case by case basis and upon request.

1. Ground and ladder fuels within specific fuel modification zones shall be treated or removed.

2. Dead material within sixty feet (60') of the structure shall be removed and live vegetation shall be thinned and pruned.

3. Dead and/or downed fuels within the first two (2) fuel modification zones shall be removed in order to maintain the fuel modification area. More detailed information regarding standing dead specifications are outlined in subsection I of this section.

4. Vegetation and/or shrubs under trees within fuel modification Zones 1 and 2 shall be maintained at a height not to exceed three feet (3').

E. Combustible Materials: Other combustible material shall be removed from Zone 1 or stored in a suitable area as

approved by the Angel Fire Chief of Fire/EMS, or his/her designee. Examples of combustible materials are: woodpiles, brush piles, grass mulching, and tree debris.

F. Existing Structure(s): All existing structures may be subject to an inspection based on the community assessments of the community wildfire protection plan.

G. New Structures: All new structures shall comply with this section.

H. Vacant Lot; Requirements: Vacant lots, a lot without any structure, shall be maintained free of dead vegetation; shrubs beneath trees shall be no greater than three feet (3') in height; ladder fuels shall be removed (up to 6 feet from ground); and all dead/down trees shall be removed, except lots greater than or equal to one acre are granted an allowance up to three (3) snags (greater than 12 inches dbh and 30 feet in height per acre) for wildlife habitat, if such snags or any one of them are more than one hundred feet (100') from any neighboring structures. (It is recommended to remove trees from vacant lots that are less than 12 inches dbh in order to maintain a healthy 15 foot spacing between tree stems that are greater than 12 inches dbh. Additional fuel reduction recommendation: Ponderosa pine should have 14 feet - 16 feet tree spacing and mixed conifer should have 16 feet - 18 feet tree spacing.)

I. Fuel Modification Requirements And Recommendations:

Fuel Modification		Requirements	Recommendations	Comments
Fuel Modification		Requirements	Recommendations	Comments
Zone 1: Immediate:				
	0 - 10'	<p>Remove all pine needles and flammable ground materials within 2' of the base of the structure during times of high fire danger</p> <p>Minimum of 10 - 12' between stems of trees <12" dbh</p> <p>Firewood: Up to 1 cord may be stacked on your deck for immediate use during the cold weather months; storage of firewood less than 2 cords shall be no closer than 10' from any structure</p> <p>Remove all ladder fuels up to 6'</p> <p>Prune trees extending over eave of roof or 25%, whichever is less</p> <p>Remove branches within 10' of chimney</p> <p>Remove all dead/down</p> <p>Keep roofs and gutters free of dead leaves and pine needles</p>	<p>Removal of trees <12" dbh in order to maintain 15' spacing between tree stems that are >12" dbh</p> <p>Maintain noncombustible ground material 10' around structure (planting beds, rock gardens, gravel or bare soil)</p> <p>Bedding plants (<18" high)</p> <p>Prune native tree limbs overhanging roof</p> <p>Consider nonflammable landscape material (example: do not use railroad ties, wood fencing, etc.)</p>	<p>Zone 1 will constitute the minimum requirements in the immediate area around a structure regardless of lot size</p>
Zone 2: Intermediate:				

	10 - 60'	<p>Minimum of 10 - 12' between stems of trees <12" dbh</p> <p>Remove all ladder fuels up to 6'</p> <p>Remove all dead/down</p> <p>Firewood: Storage of firewood greater than 2 cords shall be no closer than 30' to a structure</p>	<p>Removal of trees <12" dbh in order to maintain 15' spacing between tree stems that are >12" dbh</p> <p>Minimum 10' between stems of trees in "clumps" (maximum 5 trees/clump)</p> <p>Crowns of trees should not touch</p> <p>Maintain low combustible ground covers</p> <p>Keep lawns watered and mowed (as conditions allow)</p> <p>Consider planting beds, rock gardens and fire resistant plants. 10 - 15' between planting islands and groups of shrubs</p> <p>Bedding plants (<18" high)</p> <p>Consider nonflammable landscape material</p>	Zones 1 and 2 have much to do with the ignitability of a structure and individual protection
Zone 3: Extended:				
	60 - 100'	Remove all standing dead	<p>Removal of trees <12" dbh in order to maintain 15' spacing between tree stems that are >12" dbh</p> <p>Additional fuel reduction:</p> <p>Ponderosa pine: 14 - 16' tree spacing</p> <p>Mixed conifer: 16 - 18' tree spacing</p> <p>10 - 15' between stems of trees in "clumps" (maximum 5 trees/clump)</p> <p>10 - 15' between planting islands</p> <p>Remove all dead/down</p> <p>Prune tree limbs minimum of 6' from ground or 25% of tree height, whichever is less</p>	
Zone 4: Extended/property perimeter buffer:				
			<p>Removal of trees <12" dbh in order to maintain 15' spacing between tree stems that are >12" dbh</p> <p>Additional fuels reduction:</p>	

	100'+	No more than 3 snags (greater than 12" dbh and 30' in height per acre beyond the initial 100') for wildlife habitat, and are no closer than 100' to any neighboring structures	<p>Ponderosa pine - 14' plus tree spacing</p> <p>Mixed conifer - 16' plus tree spacing</p> <p>Prune tree limbs minimum of 6' from ground or 25% of tree height, whichever is less</p> <p>Consider coordination with neighboring properties</p> <p>Recommend treatment of entire property</p> <p>Remove dead/down</p>	Treatment in this zone addresses wildfire rate of spread and intensity. Consistent application of these recommended treatments will create conditions where a fire's rate of spread could slow down and create opportunity for fire resources to safely respond
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J. Implementation And Exclusions:

1. Compliance: Effective June 1, 2019 any person or entity who owns, leases, controls, operates, or maintains any structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass covered lands, or any land that is covered with flammable material, and located within the Village of Angel Fire shall fully comply with this section within the designated timeframe based upon the amount of property the person or entity owns, leases, controls, operates, or maintains as described in table A of this subsection. Compliance with this section shall be accomplished in the percentage stages set forth below.

TABLE A

0.25 - 1 acre	1 year	100% of the acreage shall be in compliance with this section by the end of the 1st year
1.1 - 5 acres	3 years	30% of the acreage shall be in compliance with this section by the end of the 1st year; 60% by the end of the 2nd year; and 100% by the end of the 3rd year
5.1 - 10 acres	5 years	30% of the acreage shall be in compliance with this section by the end of the 2nd year; 60% by the end of the 4th year; and 100% by the end of the 5th year
10.1 - 15 acres	7 years	30% of the acreage shall be in compliance with this section by the end of the 3rd year; 60% by the end of the 5th year; and 100% by the end of the 7th year
15.1 - 20 acres	9 years	30% of the acreage shall be in compliance with this section by the end of the 3rd year; 60% by the end of the 6th year; and 100% by the end of the 9th year
20.1 - 50 acres	10 years	35% of the acreage shall be in compliance with this section by the end of the 3rd year; 70% by the end of the 6th year; and 100% by the end of the 10th year
50.1 - 100 acres	15 years	35% of the acreage shall be in compliance with this section by the end of the 5th year; 70% by the end of the 10th year; and 100% by the end of the 15th year

>100 acres	25 years	20% of the acreage shall be in compliance with this section by the end of the 5th year; 40% by the end of the 10th year; 60% by the end of the 15th year; 80% by the end of the 20th year; and 100% by the end of the 25th year
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2. Exclusions: Any vacant land that is not readily accessible by a Village of Angel Fire maintained roadway is excluded from this section. This includes areas known and designated as Chalets 3, 3A, 3B, 5, and 6 of the Village of Angel Fire Subdivision Map, October 1989.

K. Penalties: The penalty for non-compliance with a violation of this section shall be in accordance with subsection 9-6-1E of this title. (Ord. 2019-07, 5-14-2019)

9-7-14: WATER RIGHTS REQUIREMENTS:

A. Transfer To The Village; Prerequisites For Increased Water Use:

1. Any person who applies for new municipal water services or who increases the number of bedrooms to an existing dwelling or who changes the use of an existing business that requires an increase in water consumption shall be required to transfer consumptive water rights to the village of Angel Fire in quantities sufficient to meet the water demand of the project, including any line loss. The applicant may meet the water rights transfer requirements of this section by paying a fee in lieu of the transfer in a fee amount sufficient for the village to purchase additional water rights to meet the water demand of the new commercial business or the newly created residential lot.

2. No new municipal water service connection or increase in water use shall be approved or made by the village until an application for service has been signed and completed by the property owner and there has been a completed transfer to the village of water rights or the water rights transfer requirements of this section have been met.

a. A complete transfer includes conveyance of the water right to the village, a deed showing ownership of the water right(s), an approved application of the office of the state engineer (OSE) for transfer of ownership, and a full or partial change in the place of use and purpose of use and point of diversion that is approved by the OSE.

b. The applicant shall bear the costs associated with the transfer of ownership.

c. The applicant shall pay a one time five hundred dollar (\$500.00) fee for the village to perform its due diligence in determining the validity of the water right(s) that the applicant proposed to transfer. This fee shall be waived if the applicant pays a fee in lieu of transferring water rights.

d. The village has the exclusive discretion to approve or disapprove any proposed water rights transfer to the village.

e. By resolution, the village council shall set the fee in lieu of charge per acre-foot of consumptive water right acquisition fee.

3. The requirements of this section for transfers of water rights shall be restricted to new commercial water service connections and to water service, which has been terminated for more than two (2) years. Such requirements do not apply to reconnection or renewal of service which has been terminated for less than two (2) years, or to water rights which have been previously purchased by or transferred to the village water system and approved by the OSE. This would include all residential subdivisions covered by the transfer agreement with the Angel Fire Resort. If the active service increases the use of water, the increase in water usage between the previous use and the increased use must be transferred. Increased use is determined by first computing the average water use of the current user for the past two (2) years based on water bills with the village; that average is then compared to the calculated new use based on a water budget prepared by a licensed engineer. The difference between these two (2) values shall be the additional consumptive water right, if any, to be transferred to the village.

4. The amount of water rights which shall be required to be transferred under this section shall be calculated on an acre-foot consumptive use basis, plus an additional ten percent (10%) of the consumptive use amount to compensate the village for line losses associated with each connection. Completion of such transfers shall be contingent on the approval for such transfer to the village under the rules, regulations and procedures of, and in compliance with, the state water laws and this code. All costs incurred in connection with any such transfer shall be borne by the applicant.

B. Water Rights Disclosure Statement Required For New Subdivisions: All new subdivisions must include a disclosure statement to prospective buyers the amount of water rights to which each lot is limited according to amount of water rights transferred to the village by the subdivider, a minimum transfer of one-third (1/3) acre-foot per dwelling unit is required to be transferred.

C. Annexations:

1. In order to evaluate the impact on the village's water supply, all property owner initiated annexations will be considered upon submittal of a water plan submitted by the property owner(s) requesting annexation. Annexations to the town may be approved only after the village has evaluated the impact of the proposed annexation on the pumping and distribution system and on the availability of water rights.

2. The village may determine that a property or area to be annexed will not have an impact to the village's water supply

if such property or area has its own public or private water supply, or such property or area is beyond the service area of the municipal water supply and can be served through the future installation of a public or private water supply. (Ord. 2005-04, 7-18-2005)

D. Building Permits:

1. The village shall not issue a building permit to any applicant for a building permit until all water and water rights requirements of this section are satisfied.

2. This restriction shall not apply to building permits issued by the village, which do not require an increase in water use for existing water service (or lots not within the water service area). (Ord. 2015-01, 11-17-2015)

E. Transfer Of Water Rights Does Not Waive Any Other Requirement For Water Services: The transfer of any water rights to the village, wherever applicable, in no way abolishes any requirement of connection fees or any other requirements of the village regarding the water system.

F. Application; Calculation Of Water Rights: All persons requesting a change in use and/or increase in use shall complete an application for service prior to receiving building permit approval and shall submit a water budget prepared by a licensed engineer. The village administrator, or his designee will review that water budget for concurrence. At the time a building permit is issued, the applicant shall pay all applicable fees as required by this section.

G. Regulation Of Water Consumption: It is unlawful for any person to divert and/or consume more water than allowed by the person's water service agreement with the village without first transferring to the village additional water rights in an amount sufficient to the person's water demands. (Ord. 2005-04, 7-18-2005)

9-7-15: DEVELOPMENT REQUIREMENTS FOR COMMERCIAL AND RESIDENTIAL CONSTRUCTION:

A. Any applicant applying for a building permit for new commercial construction that is requested adjacent to a dedicated right(s) of way that has a width less than sixty feet (60') shall be required to dedicate sufficient land to create thirty feet (30') of right of way from the centerline of the right(s) of way.

This additional right of way shall run the length of the subject property along all existing right(s) of way adjacent to the subject property.

B. Any applicant applying for a building permit for new commercial construction that is requested adjacent to a public access easement that has a width less than sixty feet (60') shall be required to maintain the required setback plus sufficient land to create thirty feet (30') of access from the centerline of the existing public access easement.

This additional land shall run the length of the subject property along all existing sides of the subject property adjacent to the existing easements.

C. No building permits will be issued for new commercial construction that is adjacent to a private access easement except for those locations that have secured planned unit development approval or site plan approval from the village council as required by this zoning code.

D. Any applicant applying for a building permit for residential construction that is requested adjacent to a dedicated right(s) of way that has a width less than sixty feet (60') shall be required to dedicate sufficient land to create thirty feet (30') of right of way from the centerline of the right(s) of way.

E. Any applicant applying for a building permit for residential construction that is requested adjacent to a public access easement that has a width less than sixty feet (60') shall be required to maintain the required setback plus sufficient land to create thirty feet (30') of access from the centerline of the existing public access easement.

F. Any existing structure shall be eligible to receive a variance for nonconforming use.

G. All wire services to a new construction site and throughout the subject property shall be buried underground.

a. Temporary power poles may be utilized for a period of twelve months with approval from the Village Manager or Director of Planning and Zoning. This temporary allowance may be extended one time for an additional twelve months. Consideration for this request shall be contingent upon the utility service provider's ability to install underground wiring in a timely manner. (Ord. 2003-05, 3-20-2003; amd. Ord. 2005-01, 1-20-2005; Ord. 2023-03, 3-14-2023)

9-7-16: IMPLEMENTATION OF THE NEW MEXICO CANNABIS REGULATION ACT:

A. Purpose: The purpose of this Ordinance is to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the Village of Angel Fire enacts reasonable regulations and requires compliance with laws for the retail sale, cultivation and manufacturing of cannabis or cannabis products in a cannabis establishment or cannabis testing facility and the cultivation, processing and manufacturing of cannabis in a primary residence. Nothing in this Ordinance is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of cannabis or cannabis products in violation of any applicable law.

B. Rules OF Construction Of This Section: The section will be construed pursuant to the definitions, authority and restrictions in Chapter 4, Laws of New Mexico, 2021, the Cannabis Regulation Act (CRA) and the DEE Johnson Clean Indoor Air Act § 24-16-1 et seq. NMSA 1978. (Dee Johnson Act)

C. Definitions:

CONSUME, CONSUMING, and CONSUMPTION:	The act of ingesting, inhaling or otherwise introducing cannabis into the human body.
OPEN SPACE:	A public park, public sidewalk, public walkway or public pedestrian thoroughfare.
PUBLIC PLACE:	Has the same meaning prescribed in the Dee Johnson Clean Indoor Air Act, N.M.R.S. § 24-16-3.
SMOKE:	To inhale, exhale, burn, carry or possess any lighted cannabis or lighted cannabis products, whether natural or synthetic.

D. Cannabis Prohibited On Public Property:

1. The use, sale, cultivation, manufacture, production, storage or distribution of cannabis or cannabis products is prohibited on property that is occupied, owned, controlled, or operated by the Village of Angel Fire.
2. It is unlawful for an individual to smoke cannabis or consume cannabis products on property that is occupied, owned, controlled, or operated by the Village.
3. It is unlawful for an individual to smoke cannabis or consume cannabis products in any open space in the Village of Angel Fire.
4. It is unlawful for an individual to smoke in a public place in the Village of Angel Fire.

E. License/Certificate of Occupancy; Penalty/Continuing Violations: A Cannabis Establishment must obtain from the Village a certificate of occupancy and a business license before occupying any premises. Failure to do so will be punishable, upon conviction, by a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) and by imprisonment for not more than fifteen (15) days and for a second or subsequent offense shall be punished by a fine of no less than one hundred dollars (\$100.00) or no more than five hundred dollars (\$500.00) or by imprisonment for up to ninety (90) days, or both. Violators may be cited for each day of violation.

F. Use Penalties: Any person, upon conviction of violation of division D. of this section will be punishable by a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) and by imprisonment for not more than fifteen (15) days and for a second or subsequent offense shall be punished by a fine of no less than one hundred dollars (\$100.00) or no more than five hundred dollars (\$500.00) or by imprisonment for up to ninety (90) days, or both. (Ord. 2021-09, 10-12-2021)

CHAPTER 8

SIGNS

SECTION:

- 9-8-1: Purpose**
- 9-8-2: General Requirements**
- 9-8-3: Permit Requirements**
- 9-8-4: Permanent Signs**
- 9-8-5: Off Premises Signs**
- 9-8-6: Structural And Architectural Characteristics**
- 9-8-7: Banner Signs**
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- 9-8-10: Nonconforming Signs**
- 9-8-11: Removal Of Signs**
- 9-8-12: Posting Address**
- 9-8-13: Exceptions To Provisions**
- 9-8-14: Remedies For Noncompliance**
- 9-8-15: LED Signs**
- 9-8-16: Signs Variances**
- 9-8-1: PURPOSE:**

Angel Fire and the Moreno Valley have view sheds of exceptional scenic value that represent the baseline of our tourist and recreational economy. The purpose of this chapter is to protect the scenic and intrinsic values of these view sheds while at the same time affording general commerce the ability to advertise and market their products and services to the public at large in a reasonable manner.

The Village encourages existing and future business owners to contact the Planning and Zoning Division to determine how this chapter can be utilized to maximize signage opportunities. (Ord. 2017-03, 4-25-2017)

9-8-2: GENERAL REQUIREMENTS:

- A. Compliance With Provisions: No signs of any type, including any seasonal signs, shall be allowed, constructed, erected, or maintained, except as specifically provided herein.
- B. Location On Private Property Only: Signs shall be allowed on private property only, not in rights-of-way. Signs shall not be allowed within easements unless having received the written permission of the owner.
- C. Illuminated, Moving Signs:
 - 1. Sign illumination shall be either indirect with the source of light concealed from direct view or shall be through translucent, light diffusing materials utilizing low voltage lights.
 - 2. Light will shine pointed down on the sign and not create night sky light pollution.
 - 3. Any exposed electrical conduit shall be of the same color as the background.
- D. Building Directory Signs: One building directory sign per building, listing all businesses in a building by name only, shall not exceed five (5) square feet and shall be placed near or at the primary entrance into the building, and will not be included in the total attached sign face area allowed.
- E. Directional Or Warning Signs: Directional or warning signs on residential lots with less than one square foot of area on one side may be attached to trees and shall not require a permit. A maximum of three (3) such signs shall be allowed on one property.
- F. Maintenance And Repair: All signs shall be maintained in good repair and not faded, unsightly, mutilated, peeling or otherwise defaced. (Ord. 2017-03, 4-25-2017)

9-8-3: PERMIT REQUIREMENTS:

- A. Permit Required: A sign permit shall be required for any sign except where stated otherwise, and no sign shall be erected, constructed, altered, remodeled, or changed until the Coordinator has issued a permit.
- B. Application For Permit: A permit will be considered by the Coordinator only after an application has been filed with the Planning and Zoning Office showing the plans and specifications, including dimensions, materials, and details of construction, of the proposed sign.
- C. Review And Approval:
 - 1. After the required fee is paid, the zoning official shall consider all complete applications for approval or denial.
 - 2. The Coordinator will review all signs for conformance with the provisions of this chapter.
- D. Exemptions:
 - 1. Signs required by Federal, State or local authorities are exempt from this section.
 - 2. Permits are not required for real estate signs, construction signs, residential signs or security signs as identified in these regulations. (Ord. 2018-03, 9-11-2018)

9-8-4: PERMANENT SIGNS:

- A. Freestanding Signs:
 - 1. Freestanding Signs: Freestanding signs shall:
 - a. Be limited to a single, two (2) sided sign per lot.
 - b. Not be higher than twelve feet (12') from the ground for single businesses.
 - c. Not be higher than fifteen feet (15') from the ground for multiple businesses with one front lot and no higher than twelve feet (12') on double front or corner lot (if 2 signs are employed).
 - d. Be set back five feet (5') within the property lines upon which the principal building is located.
 - e. Be limited to a maximum face area of thirty two (32) square feet per side.
 - f. Have all supports, frames and posts painted or otherwise finished.
 - g. Be included in the total sign area authorized for a business or use. One side only is counted if the sign is freestanding.
 - h. Be designed and constructed to withstand a ninety five (95) mile per hour wind.

2. Business Complex Allowance Of Freestanding Signs: A business complex shall be allowed one freestanding sign with a maximum of seventy five (75) square feet of sign face area of which thirty three percent (33%) must be dedicated to identifying the building complex.

3. Business Complexes Located On Corner Or Double Lots: A business complex located on a corner lot or on a double fronting lot shall be allowed two (2) freestanding signs, one per street only, with a maximum of sixty (60) square feet of sign face area per sign, of which thirty three percent (33%) must be dedicated to identifying the building complex.

4. Marquee Signs: Marquee signs designed with changeable letters to change text or message shall be included in the total signage authorized for the business or use.

5. Canopy Signs: Gas station canopy signs are permitted on two (2) sides of a canopy, each sign not to exceed ten (10) square feet.

B. Projecting Signs:

1. Projecting signs may be used in lieu of a hanging sign and shall:

- a. Be limited to a single, two (2) sided sign per use.
- b. Not be higher than the ridgeline or the parapet wall of the building to which it is attached.
- c. Not be higher than twelve feet (12') above ground level as measured to the top of the sign or supports, whichever is higher.
- d. Be a minimum of eight feet (8') above grade.
- e. Not extend more than four feet (4') from a building wall.
- f. Not project over any vehicular traffic area.
- g. Be limited to a maximum face area of sixteen (16) square feet per side.

2. Neon signs as projecting signs are not permitted.

C. Attached Signs:

1. Attached signs shall:

- a. Not project more than six inches (6") from the wall on which they are displayed.
- b. Have a maximum of thirty two (32) square feet of total sign area. For businesses with additional street or parking lot fronts, shall be permitted an additional sixteen (16) square feet per additional street or parking lot front.

2. Cutout letter signs shall be considered attached signs if attached to a building. (Draw a box around the words to calculate the surface area.)

3. Reserved.

4. Business complexes shall be allowed a maximum of thirty two (32) square feet of attached signage per business/commercial space and each business complex shall be allowed a business identification sign that is not associated with any of the businesses within the complex and shall not exceed thirty two (32) square feet.

5. A single business in a stand alone building shall be allowed twenty percent (20%) of the area of the wall on which they are displayed, or eighty (80) square feet total sign area, whichever is less.

D. Hanging Signs:

1. Hanging signs may be used in lieu of a projecting sign and shall:

- a. Be located under a porch, portal, or covered walkway.
- b. Be limited to four (4) square feet per side. (Ord. 2017-03, 4-25-2017)

9-8-5: OFF PREMISES SIGNS:

A. Permitted Off Premises Signs:

1. Off premises signs will be permitted only for businesses located along designated arterial streets, and will be for the purpose of direction only.

2. All persons requesting off premises signs will be required to present written permission from the owner approving the placement of the sign and the proof of ownership of the property in question.

B. Area:

1. The total area permitted is thirty two (32) square feet per side.
2. The area of one (1) side of an off premises sign will be included in the total signage of the business.

C. Number Of Signs:

1. There shall be a maximum of one (1) off premises sign per lot.
2. Where there is an existing on premises freestanding sign, no off premises sign shall be permitted.
3. Where there is an existing off premises sign, an on premises sign shall not be permitted until the off premises sign is removed. (Ord. 2017-03, 4-25-2017)

9-8-6: STRUCTURAL AND ARCHITECTURAL CHARACTERISTICS:

- A. No lettering on any sign, including cutout letter signs, shall exceed eighteen inches (18") in height, except for multiple-family/business complex identification signs which may have letters no more than twenty four inches (24") in height.
- B. No sign shall be placed above the parapet of the wall or above the eaves or on any roof.
- C. All supports and frames shall be painted, sealed, or stained.
- D. Signage within the Village shall complement the mountain environs of Angel Fire.
- E. Except for backlit signs, freestanding signs shall be framed in natural wood.
- F. All steel posts, concrete posts, similar materials and sign face frames shall be wrapped or covered with natural wood or shall be painted a wood brown or forest green color.
- G. Freestanding signs shall have a maximum of two (2) posts. (Ord. 2017-03, 4-25-2017)

9-8-7: BANNER SIGNS:

- A. Permit Required:
 1. Business Or Event: Banner signs for a business or event require a permit.
 2. Banners:
 - a. Banners For Business Events: Banners for business events shall be reviewed and permits granted for a maximum of sixty (60) days per calendar year for business events only, with no banner being displayed more than thirty (30) consecutive days. A business may spread its sixty (60) days of display over the duration of the calendar year, provided all of the display dates are listed on the banner application. The banner shall be displayed only in front of that business.
 - b. Political And Not For Profit Banners: Political and not for profit banners require a permit and require permission from the property owner, but are exempt from permit fees. These banners may be installed ten (10) days prior to the event/activity and must be taken down at the end of the event/activity.
 - c. Non-Event Banners: Not for profit -501 organizations, can submit an application for a permanent annual on premises permit for non-event banners.
 - d. Size: Maximum size of a banner sign shall be thirty (30) square feet.
 - e. Condition: All banners must be kept in good repair and stretched tight.
 3. Yard Signs:
 - a. For 5013C nonprofits only and require a permit with permission from the property owner, but are exempt from permit fees. These yard signs may be installed ten (10) days prior to the event/activity and must be taken down at the end of the event/activity.
 - b. The maximum size for the yard signs shall be three (3) square feet.
- B. No Permit Required:
 1. Gasoline Price Signs: Gasoline price signs shall:
 - a. Not require a sign permit.
 - b. Be permitted on site, double faced, and shall not exceed twelve (12) square feet of surface area.
 - c. Have no other advertising beyond brand name and price.
 2. Garage Sale And Private Event Signs: There will be a three (3) day limit on garage sale and private event signs, and they must be removed the day following the day of the sale.
 3. Reserved.
 4. Vacancy/No Vacancy Signs: Vacancy/no vacancy signs, provided they do not exceed two (2) square feet in face area.
 5. Open/Closed Signs: Open/closed signs, provided they do not exceed four (4) square feet in face area.
 6. On Site Direction Signs: On site direction signs, provided they do not exceed two (2) square feet in face area and are limited to directional information only.
 7. Flags:

- a. Residential: Pole may not exceed the building height.
 - b. Commercial: Pole may not exceed ten feet (10') higher than the building, with a maximum of two (2) flagpoles per commercial lot.
8. Real Estate Signs (For Sale Or For Rent):
- a. For Sale Or For Rent Signs Generally: One (1) nonilluminated sign may be used for advertising the sale or rental of a property.
 - (1) It shall not exceed three (3) square feet for residential property or five and one-half (5.5) square feet for commercial property.
 - (2) The sign shall be removed within seven (7) days after the sale or rental of the property.
 - (3) Only one (1) real estate sign shall be on any one (1) property at one time, except for lots that are adjacent to Monte Verde Lake, the golf course, or the ski area may have a maximum of two (2) signs, with up to one (1) sign facing the amenity.
 - b. For Sale By Owner: For sale by owner signs must follow the same regulations as real estate for sale signs.
 - c. Open House Sign:
 - (1) No more than five (5) directional or informational signs, each of which is no more than three (3) square feet, are allowed, provided they are located on private property.
 - (2) All signs must be removed within twenty four (24) hours of the open house but in no event more than four (4) days after being erected or placed.
 - d. Location: Signs are not to be installed in the street right- of-way.
9. Construction Site Signs: Construction site signs shall be limited to sixteen (16) square feet per side, with a maximum height of five feet (5') and will be limited to one (1) per site. Construction site signs shall be erected after a building permit has been issued and shall be removed prior to the issuance of a certificate of occupancy.
10. Residential Identification Signs:
- a. Single-family residential identification signs, such as the name and/or address of the property owner, shall not exceed four (4) square feet. Signs existing on the effective date of this title shall be nonconforming until there is a change in ownership, at which time the nonconforming sign shall be brought into compliance. Anything larger will need approval from the Planning and Zoning Commission.
 - b. Home watch security signs identifying the name and phone number of a caretaker company under contract to monitor the security of a residence shall not exceed two (2) square feet.
 - c. Multi-family residential complexes shall be allowed one (1) monument sign per street front not to exceed four feet (4') in height and thirty two (32) square feet in total sign face area. Each monument sign shall incorporate one hundred (100) square feet of landscaping.
11. Sandwich Boards And Feather Flags: One (1) each allowed per business.
- a. Sandwich boards shall:
 - (1) Have a maximum sign face area twenty eight inches (28") wide by forty two inches (42") in height.
 - (2) Not be placed in right-of-way and not be electrified.
 - (3) Must be removed at close of business each day.
 - b. Feather flags shall:
 - (1) Have a maximum size of banner of 2.5' x 8' with a post no more than twelve feet (12').
 - (2) Not be placed in right-of-way and not be electrified.
12. Awning Signs: Awning signs, provided lettering does not exceed six inches (6") in height. (Ord. 2017-03, 4-25-2017)

9-8-8: PROHIBITED SIGNS AND CONDITIONS:

A. Unsafe Situations:

1. No sign shall be erected, located, or maintained that limits free and unfettered ingress to or egress from any door, window or fire escape.
2. No sign of any kind shall be attached to a standpipe or fire escape.
3. No sign or other advertising shall be erected at the intersection of any street in a manner which obstructs free and clear vision; at any location whereby its position, shape or color may interfere with, obstruct the view of, or be confused with any traffic sign, signal or device; or which makes use of the words "stop", "look", "danger", or any other word, phrase,

symbol or character that may interfere with, mislead or confuse traffic.

B. Obscene, Indecent Signs: It is unlawful for any person to display any obscene, indecent or immoral matter on any sign or other advertising structure.

C. Flashing, Moving Signs:

1. Other than open/closed/vacancy signs inside of a building, no sign shall flash, blink, vary in intensity, revolve, or otherwise appear to be in motion. This provision includes signs inside a building that are visible from outside of the building.

2. Flashing, blinking, running lights, and moving signs are prohibited. Time/temperature signs and electronic marquee signs are exempted from this prohibition.

D. Overhanging Signs: No sign shall be erected, located or maintained on or over public property or rights-of-way without Council approval, upon recommendation of the commission.

E. Interference With Existing Signs: All proposed sign locations may be inspected to ensure that a new sign does not interfere with an existing sign.

F. Neon Signs: No neon type signs are allowed except vacancy/no vacancy and open/closed signs as per subsections 9-8-7B4 and B5 of this chapter.

G. Commercial Signs Attached To Trees: No commercial signs (excluding real estate signs) shall be attached to trees.

H. Banner Type Signs: No banner type signs or feather flags shall be placed on any vehicle.

I. Trailer Type Signs: No signs incorporated on a frame with wheel axles or mounted on any type of trailer is permitted. Removal of tires or axles does not constitute a change in sign status.

J. Painted Signs: Signs shall not be painted directly on exterior walls or roofs of a building. (Ord. 2017-03, 4-25-2017)

9-8-9: VACANT BUILDING SIGNS:

If a business leaves a building or portion of a building vacant for more than thirty (30) days, the owner of the subject building shall remove all sign messages related to the previous occupant. If there are signs with plastic panels on the premises, those panels shall be removed and replaced with plastic, wood or similar material; colored or painted to match the building, or may be painted, or colored white. (Ord. 2017-03, 4-25-2017)

9-8-10: NONCONFORMING SIGNS:

Any nonconforming sign legally erected prior to the effective date of this title shall be required to be brought into compliance when there is a change in ownership of the sign, a change in the type of business, or any proposed modification to the subject sign. A nonconforming sign that is knocked down due to weather, or that is removed for building or parking lot maintenance shall not be reconstructed or erected unless it can be brought into compliance with this chapter. (Ord. 2017-03, 4-25-2017)

9-8-11: REMOVAL OF SIGNS:

A. Obsolete Signs: Any sign now or hereafter existing which does not advertise an active business operation or a product sold shall be taken down and removed within thirty (30) days by the owner, agent or person having the beneficial use of the building, lot or structure upon which the sign may be found.

B. Repair And Renovation Of Area: Whenever a sign is removed from a building or structure, the building or structure shall be cleaned and/or painted, and all sign supports, brackets, mounts, utilities or other connecting devices shall be removed so that there is no visible trace of the removed sign. (Ord. 2017-03, 4-25-2017)

9-8-12: POSTING ADDRESS:

A. All residential property owners shall be responsible for maintaining their street addresses in view, day and night from a point where the street and the owner's driveway meet.

B. All commercial property owners shall be responsible for maintaining and displaying their street numbers on their buildings utilizing six inch (6") numbers and four inch (4") letters for individual suites and lease spaces. (Ord. 2017-03, 4-25-2017)

9-8-13: EXCEPTIONS TO PROVISIONS:

A. The Village Community Center is authorized to use the median located in the North Angel Fire Road right-of-way and in the ROW (right-of-way) on Valley Road for directional purposes and to advertise ongoing and upcoming events held at the Community Center, provided such signage does not interfere with a driver's ability to see through the intersections in all directions.

B. The Village may, with a contractual agreement with a property owner, install, erect, or place a freestanding sign in addition to total face area permitted for that specific property for the purposes of disseminating community information. Except for total face area and number of freestanding signs permitted, all other sign provisions of this title shall apply. (Ord. 2017-03, 4-25-2017)

9-8-14: REMEDIES FOR NONCOMPLIANCE:

Noncomplying signs shall put the owner in violation of this title. Once notified in writing of any violation, an owner has ten (10) business days to comply or be sited into Municipal Court. (Ord. 2017-03, 4-25-2017)

9-8-15: LED SIGNS:

LED Signs: LED signs are digital signs designed to change images or messages electronically.

- A. Must contain a default mechanism that freezes the image in one position in case of a malfunction;
- B. Must automatically adjust the sign brightness based on natural ambient light conditions in compliance with the following formula:
 - 1. The ambient light level measured in luxes, divided by 256 and then rounded down to the nearest whole number, equals the dimming level; then
 - 2. The dimming level, multiplied by .0039 equals the brightness level; then
 - 3. The brightness level, multiplied by the maximum brightness of the specific sign measured in nits, equals the allowed sign brightness, measured in nits. For example:
 - 32768 (ambient light in luxes) ÷ 256 = 128 (dimming level)
 - 128 (dimming level) x 0.0039 = 0.4992 (brightness level)
 - 0.4992 (brightness level) x 9000 (maximum brightness of the example sign) = 4492.8 (allowed brightness in nits)
- C. Must be turned off between 9:00 p.m. and 7:00 a.m.(with the exception of a time and temperature display); and
- D. May not display light of such intensity or brilliance to cause glare, impair the vision of an ordinary driver, or constitute a nuisance.
- E. Light intensity. Before the issuance of a video board sign permit, the applicant shall provide written certification from the sign manufacturer that:
 - 1. The light intensity has been factory programmed to comply with the maximum brightness and dimming standards in the table in Subparagraph (a)(l)(B); and
 - 2. The light intensity is protected from end-user manipulation by password-protected software, or other method satisfactory to the building official.
- F. Change of message. Except as provided in this section, changes of message must comply with the following:
 - 1. Each message must be displayed for a minimum of eight seconds.
 - 2. Changes of message must be accomplished within two seconds.
 - 3. Changes of message must occur simultaneously on the entire sign face.
 - 4. No flashing, dimming, or brightening of message is permitted except to accommodate changes of message.
- G. Malfunction. LED sign operators must respond to a malfunction or safety issue within one hour after notification. Malfunctioning signage that creates a visual hazard must be turned off until repaired.
- H. LED signs shall be permitted by conditional use permit only.
 - 1. One LED sign shall be permitted in a public venue space (an area that hosts a combination of public concerts, farmers markets, and other community events). This LED sign shall be permitted to provide public service announcements and off-premise advertising. This LED sign shall not exceed one hundred (100) square feet. This LED sign must comply with provisions A, B, D, E, F, and G of this section. (Ord. 23-02, 3-14-2023)

9-8-16: SIGN VARIANCES:

- A. The Village Council shall consider variances to the sign regulations (with exception of residential identification signs) recommended by the Commission and Coordinator. The Council may vary the size, number, or location of a sign. The Council may provide a variance when:
 - 1. Presented with evidence that strict compliance will result in a substantial financial hardship; or
 - 2. The creation of an inequity to the applicant without sufficient corresponding benefit to the Village and its citizens in accomplishing the objectives of this article. (Ord. 23-02, 3-14-2023)

CHAPTER 9

ZONING DISTRICTS AND MAP

SECTION:

- 9-9-1: Districts Established**
- 9-9-2: Zoning District Map**
- 9-9-3: Uses**

9-9-1: DISTRICTS ESTABLISHED:

In order to carry out the purposes of this title, the Village is hereby divided into the following zoning districts:

- R-1 Single-Family Residential
- R-2 Medium Density Residential
- R-3 High Density Residential
- R-4 Single-Family, Equestrian
- R-5 Single-Family Cluster
- R-6 Mobile Home Residential
- C-1 Office, Retail Commercial
- C-2 General Commercial
- MVB Mountain View Boulevard North Corridor Overlay Zone
- HC Heavy Commercial
- O-1 Core
- O-2 Mixed Use
- O-3 Greenbelts and Open Space
- O-4 Golf Course and Recreation
- O-5 Ski Area, Recreational
- O-6 Girl Scout Ranch, Recreational

(Ord. 2002-02, 1-17-2002; amd. Ord. 2005-03, 4-21-2005; Ord. 2010-04, 5-4-2010; Ord. 2016-04, 7-12-2016; Ord. 2019-08, 7-30-2019)

9-9-2: ZONING DISTRICT MAP:

A. Incorporation By Reference; Copies: The official zoning map of the Village, with the location and boundaries of the established zoning districts set forth thereon (plat A attached to the ordinance codified herein), and with all notations, references, and other information shown thereon, is incorporated as part of this title. Notwithstanding the existence of copies of the official zoning map, the official zoning map, reflecting the zoning districts within the Village, is available for public inspection upon request.

B. Changes To Map: All changes to the official zoning map for the Village made in accordance with the provisions of this title shall be entered on such map.

C. Interpretation Of Boundaries: The commission, if necessary, may interpret the official zoning map. Where uncertainty exists with respect to the boundaries of the various districts, as shown on the district map, the following rules shall apply:

1. Public Ways: The district boundaries are either streets or alleys unless otherwise shown, and where the districts designated on the zoning district map are bounded approximately by street or alley lines, the centerline of such street or alley shall be construed to be the boundary of the district.

2. Lot Lines: Where the district boundaries are not otherwise indicated, and where the property has been or is divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the district map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

3. Zoning District Map: In unsubdivided property, the district boundary lines on the zoning district map shall be determined by use of the scale appearing on the map. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

9-9-3: USES:

Except as herein provided, no building, structure, or property shall hereafter be used, and no building or other structure shall be erected, constructed, altered, or moved to or within the Village, except in conformance with this title defining the zoning district in which such building, structure, or property is located. (Ord. 2002-02, 1-17-2002)

CHAPTER 10
RESIDENTIAL DISTRICTS

ARTICLE A. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

SECTION:

9-10A-1: Purpose

9-10A-2: Permitted Uses

9-10A-3: Conditional Uses

9-10A-4: Development Standards

9-10A-5: Off Street Parking

9-10A-6: Miscellaneous Provisions

9-10A-1: PURPOSE:

The purpose for which the R-1 district is created is to provide areas for low density single-family residential development along with customary accessory uses. Full time occupancy shall not exceed six (6) unrelated persons, unless otherwise permitted by law. (Ord. 2002-02, 1-17-2002)

9-10A-2: PERMITTED USES:

Accessory building, one, having residential uses customarily incidental to single-family dwelling units.

Detached garages, provided all setbacks and open space requirements are met and structure is architecturally compatible with the principal building. Minimum building separation of ten feet (10'), including eaves.

Dwelling unit: One single-family residence.

Garage sale, two (2) per year.

Garages, private, accessory to the principal permitted use shall be consistent with this zoning code and the building codes and aesthetically compatible.

Home occupations: See section 9-7-6 of this title.

Noncommercial greenhouse or gazebo.

Planned unit developments.

Sign, one, with the name of resident or owner and street address of two (2) square feet maximum will be allowed without a sign permit; minimum setback of five feet (5'). (Ord. 2002-02, 1-17-2002; amd. Ord. 2004-03, 4-20-2004; Ord. 2011-01, 1-11-2011; Ord. 2021-9, 9-14-2021)

9-10A-3: CONDITIONAL USES:

On lots of one (1) or over, one detached or attached accessory living quarters may be added within one hundred feet (100') of the principal dwelling, but not larger than fifty percent (50%) of the area of the principal dwelling with a minimum of five hundred (500) square feet of heated living space.

A. Standards:

1. Detached or attached accessory living quarters shall be a conditional use in R-1 zoning subject to the following requirements:

a. All setback and open space requirements are met and structure is architecturally compatible with the principle building.

b. Minimum separation of detached structures of ten feet (10'), including eaves.

c. A minimum of an additional two (2) off-street parking spaces are provided on the property in addition to current parking spaces.

d. Additional encroachments will require a separate permit and meet or exceed all encroachment codes and standards.

e. Connection to Village water system and waste water system in required if the primary structure is also required to connect.

f. Septic systems (if permitted) must meet or exceed size and system requirements for the addition of the accessory living quarters.

Small residential wind energy system generating ten (10) kilowatts or less.

A. Standards:

1. Small residential wind energy systems shall be a conditional use in all zoning districts subject to the following requirements:

a. Maximum Tower Height: The vertical distance from ground level to the tip of a wind generator blade and shall not exceed thirty five feet (35') from outside edge of rotor.

b. Setbacks: A wind tower for a small residential wind system shall be set back a distance equal to its total height from:

(1) Any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;

- (2) Any overhead utility lines, unless written permission is granted by the affected utility;
- (3) All property lines, unless written permission is granted from the affected landowner or neighbor.

c. Access:

(1) All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.

(2) The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet (8') above the ground.

d. Electrical Wires: All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.

e. Lighting: A wind tower and generator shall not be artificially lighted unless such lighting is required by the federal aviation administration.

f. Appearance, Color, And Finish: The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit.

g. Signs: All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.

h. Code Compliance: A small residential wind energy system including tower shall comply with all applicable state construction and electrical codes, and the national electrical code.

i. Utility Notification And Interconnection: Small residential wind energy systems that connect to the electric utility shall comply with the public service commission of New Mexico rules.

j. Sound: Small residential wind energy systems shall not exceed sixty (60) dBA, as measured on any adjacent properties. The level, however, may be exceeded during short term events such as utility outages and/or severe wind storms.

B. Permit Requirements:

1. Building Permit: A building permit shall be required for the installation of a small residential wind energy system.

2. Documents: The building permit application shall be accompanied by a plot plan which includes the following:

- a. Property lines and physical dimensions of the property;
- b. Location, dimensions, and types of existing major structures on the property;
- c. Location of the proposed wind system tower;
- d. The right of way of any public road that is contiguous with the property;
- e. Any overhead utility lines;
- f. Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);
- g. Tower foundation blueprints or drawings;
- h. Tower blueprint or drawing;

3. Fees: The application for a building permit for a small residential wind energy system must be accompanied by the fee required for a building permit for a permitted accessory use.

4. Expiration: A permit issued pursuant to this use shall expire if:

a. The small residential wind energy system is not installed and functioning within six (6) months from the date the permit is issued; or

b. The small residential wind energy system is out of service or otherwise unused for a continuous twelve (12) month period.

C. Abandonment:

1. A small residential wind energy system that is out of service for a continuous twelve (12) month period will be deemed to have been abandoned. The chief building inspector may issue a notice of abandonment to the owner of a small residential wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the notice of abandonment within thirty (30) days from notice receipt date. The chief building inspector shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.

2. If the small residential wind energy system is determined to be abandoned, the owner of a small residential wind energy system shall remove the wind generator and the tower at the owner's sole expense within ninety (90) days of receipt of notice of abandonment. If the owner fails to remove the wind generator and the tower, the chief building inspector may pursue a legal action to have the wind generator and tower removed at the owner's expense.

D. Building Permit Procedure:

1. An owner shall submit an application to the chief building inspector for a building permit for a small residential wind energy system. The application must be on a form approved by the chief building inspector and must be accompanied by two (2) copies of the plot plan identified in subsection B2 of this use.

2. The chief building inspector shall issue a permit or deny the application within one month of the date on which the application is received.

3. The chief building inspector shall issue a building permit for a small residential wind energy system if the application materials show that the proposed small wind energy system meets the requirements of this use.

4. If the application is approved, the chief building inspector will return one signed copy of the application with the permit and retain the other copy with the application.

5. If the application is rejected, the chief building inspector will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may reapply if the deficiencies specified by the chief building inspector are resolved.

6. The owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the small residential wind energy system is complete.

E. Administration And Enforcement:

1. This use shall be administered by the chief building inspector or other official as designated.

2. The chief building inspector may issue orders to abate any violation of this use.

3. The chief building inspector may issue a citation for any violation of this use.

4. The chief building inspector file a complaint for any violation of this use to municipal court.

F. Penalties: Any person who fails to comply with any provision of this use or a building permit issued pursuant to this use shall be subject to enforcement and penalties as stipulated in section 9-3-9 of this title. (Ord. 2002-02, 1-17-2002; amd. Ord. 2008-05, 7-15-2008; Ord. 2011-01, 1-11-2011; Ord. 2021-08, 9-14-2021)

9-10A-4: DEVELOPMENT STANDARDS:

A. Minimum Lot Area: Twenty one thousand (21,000) square feet. Lots that were legally platted into sizes less than twenty one thousand (21,000) square feet before December 31, 1999, are considered developable, nonconforming lots. All lot fronts shall be adjacent to and share a common boundary with a public right of way.

B. Minimum Front Lot Width: One hundred feet (100'); cul-de-sac lots shall have a minimum width of thirty feet (30'); lots with a twenty percent (20%) slope or greater shall have a minimum width of two hundred feet (200'); cul-de-sac lots with a twenty percent (20%) slope or greater shall have a minimum width of fifty feet (50').

C. Minimum Setbacks:

1. Minimum front setback: Twenty five feet (25') from any road frontage.

2. Minimum side setback: Ten feet (10').

3. Minimum rear setback: Twenty feet (20').

4. Minimum setback from Mountain View Boulevard and Highway 64: Forty five feet (45').

5. Twenty percent (20%) slope lot, minimum front setback: May be reduced with council approval. The percent slope of a lot is measured from the middle point of the front lot line to the middle point of the rear lot line. The formula for determining the slope of a lot is listed in section 9-2-1 of this title.

D. Accessory Building: Two hundred (200) square foot maximum on a permanent foundation. One allowed per lot and is to be architecturally compatible with the main structure.

E. Maximum Building Height:

1. Principal building: Thirty five feet (35') measured from high side of final grade to highest point of roof. In no case shall the height of any structure exceed the top horizon ridgeline as seen from the intersection of Mountain View Boulevard and North Angel Fire Road.

2. Garage: If attached, no higher than the principal building.

3. Accessory building and detached garages: Twenty four feet (24').

F. Open Space Required: Fifty five percent (55%) of the lot area shall be open, unencumbered and free of any building,

structure, parking, or driveways.

G. Private Roadways And Driveways: See section 9-7-12 of this title.

H. Surface Water Runoff: The building and/or grading shall not adversely change water runoff onto adjacent parcels or onto public right of way.

I. On Site Wastewater Treatment Systems: Must comply with NMED regulations. (Ord. 2002-02, 1-17-2002; amd. Ord. 2004-03, 4-20-2004; Ord. 2006-11, 10-19-2006; Ord. 2021-9, 9-14-2021)

9-10A-5: OFF STREET PARKING:

A. A minimum of two (2) spaces per dwelling unit is required.

B. Recreational vehicles ("RV") may be parked and/or occupied in open, unscreened areas for not more than one week at a time, not to exceed four (4) weeks per year. Long term use of an RV as a dwelling is not permitted. (Ord. 2002-02, 1-17-2002)

9-10A-6: MISCELLANEOUS PROVISIONS:

A. Pets: No large animals (including horses, llamas, etc.), or noncompanion animals (including livestock and farm animals such as chickens or goats) are permitted.

B. Propane Tanks:

1. Aboveground Or Underground Tanks: All propane tanks may be installed aboveground or underground. Tanks installed aboveground shall be screened from view by landscaping or by fencing as regulated by state statutes.

2. Location: A propane tank may not be located on or in a setback. The location of a propane tank shall be identified on the site plan.

C. Exterior Lighting: Exterior lighting shall be arranged so that lights neither unreasonably disturb adjacent properties nor interfere with driver vision. Refer to section 9-7-8 of this title for additional lighting requirements. (Ord. 2002-02, 1-17-2002)

D. Vehicle Storage: See subsection 9-7-9B of this title. (Ord. 2004-03, 4-20-2004)

E. Fences And Walls:

1. Fences and walls:

a. Require a permit and/or must be included on a site plan;

b. Shall have a maximum height of six feet (6'); and

2. Opaque fences and walls and chainlink fencing shall not be used around the perimeter of the lot, and the required open space shall not contain any area enclosed by solid fencing.

3. Entry gates are permitted as per subsection 9-7-10D of this title. (Ord. 2002-02, 1-17-2002)

F. Architectural Appropriateness:

1. Roofs shall be made from a nonreflective material, with a minimum twelve inch (12") overhang unless inappropriate to the house style. Parapet walls shall not require an overhang. (Ord. 2013-07, 8-13-2013)

2. Colors, styles and materials of all structures and buildings shall be aesthetically compatible with the Rocky Mountain environment of the village as outlined in section 9-7-11 of this title. (Ord. 2002-02, 1-17-2002)

ARTICLE B. R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

SECTION:

9-10B-1: Purpose

9-10B-2: Permitted Uses

9-10B-3: Conditional Uses

9-10B-4: Development Standards

9-10B-5: Off Street Parking

9-10B-6: Miscellaneous Provisions

9-10B-1: PURPOSE:

The purpose for which the R-2 district is created is to provide areas for more intensive residential development than allowed in the R-1 district, along with customary accessory uses. (Ord. 2002-02, 1-17-2002)

9-10B-2: PERMITTED USES:

R-1 (all provisions).

Accessory uses common to low density residential property (garages, storage units).

Bed and breakfast (must meet state regulations).

Dwelling unit(s): Maximum of four (4) attached dwelling units.

Group homes.

Home occupations: See section 9-7-6 of this title.

Planned unit developments.

Townhouse subdivision lots. (Ord. 2002-02, 1-17-2002; amd. Ord. 2005-01, 1-20-2005)

9-10B-3: CONDITIONAL USES:

Detached garages for single-family dwellings only, provided all setbacks and open space requirements are met and structure is architecturally compatible with the principal building; minimum building separation of ten feet (10'), including eaves, and a maximum floor area of eight hundred fifty (850) square feet.

Grazing: Granted in one year increments, in areas of forty (40) acres or larger. This is to be reviewed annually for continuation of permit based on contiguous land uses and impact on natural vegetation. (Ord. 2002-02, 1-17-2002)

9-10B-4: DEVELOPMENT STANDARDS:

- A. Maximum Density: Eight (8) dwelling units per acre.
- B. Minimum Lot Area: Twenty one thousand (21,000) square feet. Lots that were legally platted into sizes less than twenty one thousand (21,000) square feet before December 31, 1999, are considered developable, nonconforming lots.
- C. Minimum Front Lot Width: One hundred feet (100'); cul-de-sac lots shall have a minimum width of thirty feet (30'); lots with a twenty percent (20%) slope or greater shall have a minimum width of two hundred feet (200'); cul-de-sac lots with a twenty percent (20%) slope or greater shall have a minimum width of fifty feet (50').
- D. Minimum Setbacks:
 - 1. Minimum front setback: Twenty five feet (25') (any road frontage).
 - 2. Minimum side setback: Ten feet (10').
 - 3. Minimum rear setback: Twenty feet (20').
 - 4. Minimum setback from Mountain View Boulevard and Highway 64: Forty five feet (45').
- E. Accessory Building: Shall be on a permanent foundation, one per unit plus one for complex.
- F. Private Garages: Private garages accessory to the principal permitted use shall be consistent with this title and the building codes and aesthetically compatible.
- G. Maximum Building Height:
 - 1. Principal building(s): Thirty five feet (35').
 - 2. Accessory building: Sixteen feet (16').
- H. Open Space: Forty percent (40%) of the lot area shall be open, unencumbered and free of any building, structure, parking or driveways.
- I. Private Roadways And Driveways: See section 9-7-12 of this title.
- J. Surface Water Runoff: The building and/or parking lots shall not place water runoff onto adjacent lots or onto public rights of way.
- K. On Site Wastewater Treatment Systems: Must comply with NMED regulations.
- L. Townhouse Subdivision Lots:
 - 1. Minimum lot area: Two thousand five hundred (2,500) square feet.
 - 2. Minimum front lot width: Twenty five feet (25').
 - 3. Minimum side setback: Interior lots, zero feet (0'); exterior lots, ten feet (10').
 - 4. All other development standards and provisions of this article shall apply. (Ord. 2002-02, 1-17-2002; amd. Ord. 2004-03, 4-20-2004; Ord. 2005-01, 1-20-2005; Ord. 2006-11, 10-19-2006; Ord. 2021-9, 9-14-2021)

9-10B-5: OFF STREET PARKING:

- A. Minimum of two (2) spaces for each dwelling unit, plus one guest parking space per two (2) dwelling units.
- B. Clear sight triangles shall be maintained at all points of ingress/egress to the public right of way.
- C. Recreational vehicles (RVs) may not be parked for more than one week at a time for up to four (4) weeks per year. Long term use of motor home or RV as a dwelling is not permitted. (Ord. 2002-02, 1-17-2002)

9-10B-6: MISCELLANEOUS PROVISIONS:

A. Pets: No large animals (including horses, llamas, etc.), or noncompanion animals (including livestock and farm animals such as chickens or goats) are permitted.

B. Propane Tanks:

1. Aboveground Or Underground Tanks: All propane tanks may be installed aboveground or underground. Tanks installed aboveground shall be screened from view by landscaping or by fencing as regulated by state statutes.

2. Location: A propane tank may not be located on or in a setback. The location of a propane tank shall be identified on the site plan.

C. Exterior Lighting: Exterior lighting shall be arranged so that lights neither unreasonably disturb adjacent properties nor interfere with driver vision. Refer to section 9-7-8 of this title for additional lighting requirements. (Ord. 2002-02, 1-17-2004)

D. Vehicle Storage: See subsection 9-7-9B of this title. (Ord. 2004-03, 4-20-2004)

E. Fences And Walls:

1. Fences and walls:

a. Require a permit and/or must be included on a site plan;

b. Shall have a maximum height of six feet (6'); and

2. Opaque fences and walls and chainlink fencing shall not be used around the perimeter of the lot, and the required open space shall not contain any area enclosed by solid fencing. (Ord. 2002-02, 1-17-2002)

F. Architectural Appropriateness:

1. Roofs shall be made from a nonreflective material, with a minimum twelve inch (12") overhang unless inappropriate to the house style. Parapet walls shall not require an overhang. (Ord. 2013-07, 8-13-2013)

2. Colors, styles and materials of all structures and buildings shall be aesthetically compatible with the Rocky Mountain environment of the village as outlined in section 9-7-11 of this title. (Ord. 2002-02, 1-17-2002)

ARTICLE C. R-3 HIGH DENSITY RESIDENTIAL DISTRICT

SECTION:

9-10C-1: Purpose

9-10C-2: Permitted Uses

9-10C-3: Conditional Uses

9-10C-4: Development Standards

9-10C-5: Off Street Parking

9-10C-6: Miscellaneous Provisions

9-10C-1: PURPOSE:

The purpose for which the R-3 district is created is to provide areas for more intensive development than allowed in the R-2 districts, along with customary accessory uses. (Ord. 2002-02, 1-17-2002)

9-10C-2: PERMITTED USES:

R-2 permitted uses.

Bed and breakfast (must meet state regulations).

Dwelling units, attached; maximum of twenty (20).

Garage, storage unit, carport, gazebo for on site residential unit use only.

Group homes.

Home occupations: See section 9-7-6 of this title.

Planned unit developments. (Ord. 2002-02, 1-17-2002)

9-10C-3: CONDITIONAL USES:

Grazing: Granted in one year increments, in areas of forty (40) acres or larger. This is to be reviewed annually for continuation of permit based on contiguous land uses and impact on natural vegetation.

Public schools. (Ord. 2002-02, 1-17-2002; amd. Ord. 2005-01, 1-20-2005)

9-10C-4: DEVELOPMENT STANDARDS:

- A. Maximum Density: Twenty (20) dwelling units per acre.
- B. Minimum Lot Area: Twenty one thousand (21,000) square feet. Lots that comply with minimum state requirements for water and wastewater standards may have a minimum area of one thousand (1,000) square feet.
- C. Minimum Front Lot Width: One hundred feet (100'); lots with a twenty percent (20%) slope or greater shall have a minimum width of two hundred feet (200').
- D. Minimum Setbacks:
 - 1. Minimum front setback: Twenty five feet (25') from any road frontage.
 - 2. Minimum side setback: Ten feet (10').
 - 3. Minimum rear setback: Twenty feet (20').
 - 4. Minimum setback from Mountain View Boulevard and Highway 64: Forty five feet (45').
- E. Accessory Buildings: Shall be on a permanent foundation and be aesthetically compatible with principal structure.
- F. Maximum Building Height:
 - 1. Principal building(s): Thirty five feet (35').
 - 2. Accessory building(s): Sixteen feet (16').
- G. Open Space: Ten percent (10%) of the lot area shall be open, unencumbered and free of any building, structure, parking or driveway. Village council may approve designated areas and adjustments to this provision with the consideration of an approved site plan.
- H. Private Roadways And Driveways: See section 9-7-12 of this title.
- I. Surface Water Runoff: The building and/or parking lots shall not place water runoff onto adjacent lots or onto public rights of way. (Ord. 2002-02, 1-17-2002; amd. Ord. 2006-11, 10-19-2006; Ord. 2021-9, 9-14-2021; Ord. 2024-01, 7-9-2024)

9-10C-5: OFF STREET PARKING:

- A. Minimum of two (2) spaces for each dwelling unit, plus one guest space for each three (3) dwelling units.
- B. Clear sight triangles shall be maintained at all points of ingress/egress to the public right of way.
- C. Recreational vehicles may be parked in open, unscreened areas for not more than one week at a time, not to exceed four (4) weeks per year. Long term use of an RV as a dwelling is not permitted. (Ord. 2002-02, 1-17-2002)

9-10C-6: MISCELLANEOUS PROVISIONS:

- A. Pets: No large animals (including horses, llamas, etc.), or noncompanion animals (including livestock and farm animals such as chickens or goats) are permitted.
- B. Propane Tanks:
 - 1. Aboveground Or Underground Tanks: All propane tanks may be installed aboveground or underground. Tanks installed aboveground shall be screened from view by landscaping or by fencing as regulated by state statutes.
 - 2. Location: A propane tank may not be located on or in a setback. The location of a propane tank shall be identified on the site plan.
- C. Exterior Lighting: Exterior lighting shall be arranged so that lights neither unreasonably disturb adjacent properties nor interfere with driver vision. Refer to section 9-7-8 of this title for additional lighting requirements. (Ord. 2002-02, 1-17-2002)
- D. Vehicle Storage: See subsection 9-7-9B of this title. (Ord. 2004-03, 4-20-2004)
- E. Fences And Walls:
 - 1. Fences and walls:
 - a. Require a permit and/or must be included on a site plan;
 - b. Shall have a maximum height of six feet (6'); and
 - 2. Opaque fences and walls and chainlink fencing shall not be used around the perimeter of the lot, and the required open space shall not contain any area enclosed by solid fencing. (Ord. 2002-02, 1-17-2002)
- F. Architectural Appropriateness:
 - 1. Roofs shall be made from a nonreflective material, with a minimum twelve inch (12") overhang unless inappropriate to the house style. Parapet walls shall not require an overhang. (Ord. 2013-07, 8-13-2013)
 - 2. Colors, styles and materials of all structures and buildings shall be aesthetically compatible with the Rocky Mountain environment of the village as outlined in section 9-7-11 of this title. (Ord. 2002-02, 1-17-2002)

ARTICLE D. R-4 SINGLE-FAMILY, EQUESTRIAN DISTRICT

SECTION:

9-10D-1: Purpose

9-10D-2: Permitted Uses

9-10D-3: Conditional Uses

9-10D-4: Development Standards

9-10D-5: Off Street Parking

9-10D-6: Miscellaneous Provisions

9-10D-1: PURPOSE:

The R-4 district permits low density single-family housing and uses incidental thereto, including limited equestrian uses. Clustering of houses is recommended. (Ord. 2002-02, 1-17-2002)

9-10D-2: PERMITTED USES:

R-1 permitted uses.

Home occupations: See section 9-7-6 of this zoning code.

Horses: Large animals and noncompanion animals not allowed except horses.

- A. One horse per acre.
- B. Not to be pastured closer than one hundred feet (100') of a stream or wetland.
- C. Barn or stable required, with a maximum size of three thousand (3,000) square feet, and a minimum size of two hundred (200) square feet.
- D. Fencing required; no barbed wire or razor ribbon.
- E. Animal odors must be controlled.

Planned unit developments.

Single-family residences. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

9-10D-3: CONDITIONAL USES:

Accessory living quarters, one, not to exceed fifty percent (50%) of the principal building floor area.

Detached garages, provided all setbacks and open space requirements are met and the structure is architecturally compatible with the principal building.

Grazing: Granted in one year increments, in areas of forty (40) acres or larger. This is to be reviewed annually for continuation of permit based on contiguous land uses and impact on natural vegetation. (Ord. 2002-02, 1-17-2002)

9-10D-4: DEVELOPMENT STANDARDS:

- A. Maximum Density: One dwelling unit per 2.5 acres.
- B. Minimum Lot Area: 2.5 acres. Lots that were legally platted into sizes less than 2.5 acres before December 31, 1999, are considered developable, nonconforming lots.
- C. Minimum Front Lot Width: Two hundred feet (200').
- D. Minimum Setbacks:
 1. Minimum front setback: Twenty five feet (25') from any road frontage.
 2. Minimum side setback: Ten feet (10').
 3. Minimum rear setback: Twenty feet (20').
 4. Minimum setback from Mountain View Boulevard and Highway 64: Forty five feet (45').
- E. Accessory Buildings: Must be on a permanent foundation, and aesthetically compatible.
- F. Maximum Building Height:
 1. Principal building: Thirty five feet (35').
 2. Accessory building: Twenty five feet (25').
- G. Open Space: Sixty five percent (65%) of the lot area shall be open, unencumbered, and free of any building, structure, corral, parking or driveways.
- H. Private Roadways And Driveways: See section 9-7-12 of this title.

I. Surface Water Runoff: The building and/or grading shall not adversely change water runoff onto adjacent lots or on public rights of way.

J. On Site Wastewater Treatment Systems: Must comply with NMED regulations. (Ord. 2002-02, 1-17-2002; amd. Ord. 2004-03, 4-20-2004; Ord. 2021-9, 9-14-2021)

9-10D-5: OFF STREET PARKING:

A. A minimum of two (2) spaces per dwelling unit is required.

B. Recreational vehicles ("RV") may be parked and/or occupied in open unscreened area for not more than one week at a time, not to exceed four (4) weeks per year. Long term use of an RV as a dwelling is not permitted. (Ord. 2002-02, 1-17-2002)

9-10D-6: MISCELLANEOUS PROVISIONS:

A. Pets: One horse per acre is permitted. No large animals (llamas, etc.), or noncompanion animals (including livestock and farm animals such as chickens or goats) are permitted.

B. Propane Tanks:

1. Aboveground Or Underground Tanks: All propane tanks may be installed aboveground or underground. Tanks installed aboveground shall be screened from view by landscaping or by fencing as regulated by state statutes.

2. Location: A propane tank may not be located on or in a setback. The location of a propane tank shall be identified on the site plan.

C. Exterior Lighting: Exterior lighting shall be arranged so that lights neither unreasonably disturb adjacent properties nor interfere with driver vision. Refer to section 9-7-8 of this title for additional lighting requirements. (Ord. 2002-02, 1-17-2004)

D. Vehicle Storage: See subsection 9-7-9B of this title. (Ord. 2004-03, 4-20-2004)

E. Fences And Walls:

1. Fences and walls:

a. Require a permit and/or must be included on a site plan;

b. Shall have a maximum height of six feet (6'); and

2. Opaque fences and walls and chainlink fencing shall not be used around the perimeter of the lot. Nonopaque fences of sealed wood, painted steel, or a combination thereof are permitted anywhere within the buildable area of the lot.

3. Entry gates are permitted as per subsection 9-7-10D of this title. (Ord. 2002-02, 1-17-2002)

F. Architectural Appropriateness:

1. Roofs shall be made from a nonreflective material, with a minimum twelve inch (12") overhang unless inappropriate to the house style. Parapet walls shall not require an overhang. (Ord. 2013-07, 8-13-2013)

2. Colors, styles and materials of all structures and buildings shall be aesthetically compatible with the Rocky Mountain environment of the village as outlined in section 9-7-11 of this title. (Ord. 2002-02, 1-17-2002)

ARTICLE E. R-5 SINGLE-FAMILY CLUSTER DISTRICT

SECTION:

9-10E-1: Purpose

9-10E-2: Permitted Uses

9-10E-3: Conditional Uses

9-10E-4: Development Standards

9-10E-5: Off Street Parking

9-10E-6: Miscellaneous Provisions

9-10E-1: PURPOSE:

The R-5 district is intended for both attached and detached single-family housing organized around cul-de-sacs or short loop streets with lot lines designed to maximize open space. (Ord. 2002-02, 1-17-2002)

9-10E-2: PERMITTED USES:

Home occupations: See section 9-7-6 of this title.

Planned unit developments.

Single-family residences. (Ord. 2002-02, 1-17-2002)

9-10E-3: CONDITIONAL USES:

R-1 permitted uses.

Detached garages, provided all setbacks and open space requirements are met and structure is architecturally compatible with the principal building.

Grazing: Granted in one year increments, in areas of forty (40) acres or larger. This is to be reviewed annually for continuation of permit based on contiguous land uses and impact on natural vegetation. (Ord. 2002-02, 1-17-2002)

9-10E-4: DEVELOPMENT STANDARDS:

- A. Maximum Density: One dwelling unit per five (5) acres.
- B. Minimum Lot Area: Five (5) acres. Lots that were legally platted with less than five (5) acres before December 31, 1999, are considered developable, nonconforming lots. (Ord. 2002-02, 1-17-2002)
- C. Minimum Front Lot Width: Sixty feet (60'); lots with a twenty percent (20%) slope or greater shall have a minimum width of two hundred feet (200').
- D. Minimum Setbacks:
 - 1. Minimum front setback: Twenty five feet (25') from any road frontage.
 - 2. Minimum side setback: Ten feet (10').
 - 3. Minimum rear setback: Twenty feet (20').
 - 4. Minimum setback from Mountain View Boulevard and Highway 64: Forty five feet (45').
- E. Accessory Buildings: Shall be on a permanent foundation and be aesthetically compatible.
- F. Maximum Building Height:
 - 1. Principal building: Thirty five feet (35').
 - 2. Accessory building: Twenty four feet (24').
- G. Open Space: Ninety percent (90%) of the lot area shall be open, unencumbered, and free of any building, structure, parking, or driveways.
- H. Private Roadways And Driveways: See section 9-7-12 of this title.
- I. Surface Water Runoff: The building and/or grading shall not adversely change water runoff onto adjacent lots or on public rights of way.
- J. On Site Wastewater Treatment Systems: Must comply with NMED regulations. (Ord. 2002-02, 1-17-2002; amd. Ord. 2004-03, 4-20-2004; Ord. 2006-11, 10-19-2006)

9-10E-5: OFF STREET PARKING:

- A. Dwelling Unit: Minimum of two (2) spaces for each residential unit.
- B. Recreational Vehicle: Recreational vehicles (RVs) may not be parked for more than one week at a time for up to four (4) weeks per year. Long term use of motor home or RV as a dwelling is not permitted. (Ord. 2002-02, 1-17-2002)

9-10E-6: MISCELLANEOUS PROVISIONS:

- A. Pets: No large animals or noncompanion animals (including livestock and farm animals such as chickens or goats) are permitted.
- B. Propane Tanks:
 - 1. Aboveground Or Underground Tanks: All propane tanks may be installed aboveground or underground. Tanks installed aboveground shall be screened from view by landscaping or by fencing as regulated by state statutes.
 - 2. Location: A propane tank may not be located on or in a setback. The location of a propane tank shall be identified on the site plan.
- C. Exterior Lighting: Exterior lighting shall be arranged so that lights neither unreasonably disturb adjacent properties nor interfere with driver vision. Refer to section 9-7-8 of this title for additional lighting requirements. (Ord. 2002-02, 1-17-2004)
- D. Vehicle Storage: See subsection 9-7-9B of this title. (Ord. 2004-03, 4-20-2004)
- E. Fences And Walls:
 - 1. Fences and walls:
 - a. Require a permit and/or must be included on a site plan;
 - b. Shall have a maximum height of six feet (6'); and
 - 2. Opaque fences and walls and chainlink fencing shall not be used around the perimeter of the lot, and the required open space shall not contain any area enclosed by opaque fencing.

3. Entry gates are permitted as per subsection 9-7-10D of this title. (Ord. 2002-02, 1-17-2002)

F. Architectural Appropriateness:

1. Roofs shall be made from a nonreflective material, with a minimum twelve inch (12") overhang unless inappropriate to the house style. Parapet walls shall not require an overhang. (Ord. 2013-07, 8-13-2013)

2. Colors, styles and materials of all structures and buildings shall be aesthetically compatible with the Rocky Mountain environment of the village as outlined in section 9-7-11 of this title. (Ord. 2002-02, 1-17-2002)

ARTICLE F. R-6 MOBILE HOME RESIDENTIAL DISTRICT

SECTION:

9-10F-1: Purpose

9-10F-2: Permitted Uses

9-10F-3: Conditional Uses

9-10F-4: Development Standards

9-10F-5: Off Street Parking

9-10F-6: Miscellaneous Provisions

9-10F-1: PURPOSE:

The purpose of the R-6 district is to provide areas for medium density residential development for manufactured homes along with customary accessory uses. (Ord. 2002-02, 1-17-2002)

9-10F-2: PERMITTED USES:

Accessory building not to exceed two hundred (200) square feet, on a permanent foundation, having residential uses customarily incidental to single-family dwelling units.

Dwelling unit: One single-family manufactured housing unit per lot.

Garages, private, accessory to the principal permitted use shall be consistent with this zoning code and the building codes and aesthetically compatible.

Greenhouse or gazebo for personal use.

Home occupations: See section 9-7-6 of this zoning code. (Ord. 2002-02, 1-17-2002; amd. Ord. 2004-03, 4-20-2004)

9-10F-3: CONDITIONAL USES:

Grazing: Granted in one year increments, in areas of forty (40) acres or larger. This is to be reviewed annually for continuation of permit based on contiguous land uses and impact on natural vegetation.

Mobile home park, rental spaces. (Ord. 2002-02, 1-17-2002)

9-10F-4: DEVELOPMENT STANDARDS:

A. Minimum Lot Area: Five thousand (5,000) square feet. Lots that comply with minimum state requirements for water and wastewater standards may have a minimum area of one thousand (1,000) square feet.

B. Maximum Density: Twenty (20) dwelling units per acre.

C. Minimum Front Lot Width: Sixty feet (60').

D. Minimum Setbacks:

1. Minimum front setback: Fifteen feet (15') from any road frontage.
2. Minimum side setback: Eight feet (8').
3. Minimum rear setback: Ten feet (10').
4. Minimum setback from Mountain View Boulevard and Highway 64: Forty five feet (45').

E. Accessory Buildings: Shall be on a permanent foundation and aesthetically compatible.

F. Maximum Building Height:

1. Principal building: Twenty five feet (25').
2. Accessory building: Sixteen feet (16').
3. Garages: No higher than principal building.

G. Open Space: Ten percent (10%) of the lot area shall be open, unencumbered and free of any building, structure,

parking or driveways. Village council may approve designated areas and adjustments to this provision with the consideration of an approved site plan.

H. Private Roadways And Driveways: See section9-7-12 of this zoning code.

I. Surface Water Runoff: The building and/or grading shall not adversely change water runoff onto adjacent lots. (Ord. 2002-02, 1-17-2002; amd. Ord. 2021-9, 9-14-2021; Ord. 2024-01, 7-9-2024)

9-10F-5: OFF STREET PARKING:

A. A minimum of two (2) spaces per dwelling unit is required.

B. Recreational vehicles (RVs) may be parked in open, unscreened areas for not more than one week at a time, not to exceed four (4) weeks per year. Long term use of an RV as a dwelling is not permitted. (Ord. 2002-02, 1-17-2002)

9-10F-6: MISCELLANEOUS PROVISIONS:

A. Pets: No large animals (horses, llamas, etc.), or noncompanion animals (including livestock and farm animals such as chickens or goats) are permitted.

B. Propane Tanks:

1. Aboveground Or Underground Tanks: All propane tanks may be installed aboveground or underground. Tanks installed aboveground shall be screened from view by landscaping or by fencing as regulated by state statutes.

2. Location: A propane tank may not be located on or in a setback. The location of a propane tank shall be identified on the site plan.

C. Exterior Lighting: Exterior lighting shall be arranged so that lights neither unreasonably disturb adjacent properties nor interfere with driver vision. Refer to section 9-7-8 of this zoning code for additional lighting requirements. (Ord. 2002-02, 1-17-2002)

D. Vehicle Storage: See subsection9-7-9B of this zoning code. (Ord. 2004-03, 4-20-2004)

E. Fences And Walls:

1. Fences and walls:

- a. Require a permit and/or must be included on a site plan;
- b. Shall have a maximum height of six feet (6'); and

2. Opaque fences and walls and chainlink fencing shall not be used around the perimeter of the lot, and the required open space shall not contain any area enclosed by solid fencing.

F. Architectural Appropriateness:

1. All structures in this district must be skirted (siding to the ground) with a material consistent with the exterior of the home.

2. All structures shall be permanently attached to the ground or foundation.

3. Colors must be compatible with mountain environment as outlined in section9-7-11 of this zoning code. (Ord. 2002-02, 1-17-2002)

ARTICLE G. R-7 SINGLE-FAMILY VILLAGE HOME DISTRICT

SECTION:

9-10G-1: Purpose

9-10G-2: Permitted Uses

9-10G-3: Conditional Uses

9-10G-4: Development Standards

9-10G-5: Off Street Parking

9-10G-6: Miscellaneous Provisions

9-10G-1: PURPOSE:

The R-7 district permits low and medium-density single-family housing, accessory dwelling units and home occupational uses that are deemed appropriate. Clustering of lots and houses is recommended. (Ord. 2021-01, 1-12-2021)

9-10G-2: PERMITTED USES:

C-1, C-2, O-1, O-2 and R-5 for planned housing developments and subdivisions (Core Area). (Ord. 2021-01, 1-12-2021)

9-10G-3: CONDITIONAL USES:

Accessory living quarters, maximum one per single-family lot, on permanent foundations and not to exceed fifty percent (50%) of the principal dwelling floor area.

Bed & Breakfast (must meet state regulations).

Detached garages, provided all setbacks and open space requirements are met and the structure is architecturally compatible with the principal dwelling.

Home occupations: Including in the accessory building or accessory living quarters (See section 9-7-6 of this zoning code).

Non-commercial greenhouse or gazebo. (Ord. 2021-01, 1-12-2021)

9-10G-4: DEVELOPMENT STANDARDS:

A. Maximum Density: Two (2) dwelling units per lot with only one being the principle dwelling unit with a maximum of three (3) permanent structures per Village Home District single lot provided all setbacks and open space requirements are met and all the structures are architecturally compatible with the principal building.

B. Minimum Lot Area:

1. Seven thousand five hundred (7,500) square feet per lot with a maximum total lot density of three (3) lots per acre of the total subdivision acreage.

C. Minimum Setbacks:

1. Minimum front setback for cluster subdivisions: Ten feet (10') from any road frontage right of way/easement.
2. Minimum front setback for rezoning of MVB - Mountain View Boulevard North Corridor Overlay Zone must maintain the Fifty foot (50') from Mountain View Boulevard or U.S. Highway 64.
3. Minimum side setback for cluster subdivisions: Ten feet (10').
4. Minimum rear setback for cluster subdivisions: Fifteen feet (15').

D. Maximum Building Height:

1. Principal dwelling: Thirty-five feet (35').
2. Accessory building: Thirty feet (30').

E. Open Space: Twenty-five percent (25%) of the lot area shall be open, unencumbered, and free of any building, structure, parking or driveways.

F. Private Roadways and Driveways: See section 9-7-12 of this title.

G. Surface Water Runoff: The building and/or grading shall not adversely change water runoff onto adjacent lots or on public rights of way. (Ord. 2021-01, 1-12-2021)

9-10G-5: OFF STREET PARKING:

- A. A minimum of two (2) spaces per principal dwelling unit is required.
- B. A minimum of one (1) space per accessory living quarters is also required.
- C. Recreational vehicles ("RV") may not be parked for more than one week at a time, not to exceed four (4) weeks per year. Long term use of an RV as a dwelling is not permitted. (Ord. 2021-01, 1-12-2021)

9-10G-6: MISCELLANEOUS PROVISIONS:

A. Pets: No large animals (including horses, llamas, etc.) or non-companion animals (including livestock and farm animals such as chickens or goats) are permitted.

B. Propane Tanks:

1. Tanks: All propane tanks must be installed underground in vaults that meet regulatory standards.
2. Location: A propane tank may not be located on or in a setback. The location of a propane tank shall be identified on the site plan.

C. Exterior Lighting: Exterior lighting shall be arranged so that lights neither unreasonably disturb adjacent properties nor interfere with driver vision. Refer to section 9-7-8 of this title for additional lighting requirements.

D. Vehicle Storage: See subsection 9-7-9B of this title.

E. Fences and Walls:

1. Require a permit and/or must be included on a site plan;
2. Shall have a maximum height of six feet (6'); and
3. Opaque fences and walls of chain-link and stockade fencing shall not be installed around the perimeter of the lot. Non-opaque decorative fences of sealed wood, painted steel, or a combination thereof are permitted anywhere within the buildable area of the lot.

F. Architectural Appropriateness:

1. Roofs shall be made from a nonreflective material, with a minimum twelve-inch (12") overhang unless inappropriate to the house style. Parapet walls shall not require an overhang.

2. Colors, styles and materials of all structures and buildings shall be aesthetically compatible with the Rocky Mountain environment of the village as outlined in section 9-7-11 of this title. (Ord. 2021-01, 1-12-2021)

CHAPTER 11

COMMERCIAL DISTRICTS

ARTICLE A. C-1 OFFICE, RETAIL COMMERCIAL DISTRICT

SECTION:

9-11A-1: Purpose

9-11A-2: Permitted Uses

9-11A-3: Conditional Uses

9-11A-4: Development Standards

9-11A-5: Miscellaneous Provisions

9-11A-1: PURPOSE:

The purpose for which the C-1 district is created is to allow the use of land for retail, office and service commercial uses with customary accessory uses. (Ord. 2002-02, 1-17-2002)

9-11A-2: PERMITTED USES:

R-1, R-2, R-3, R-4, R-5 permitted uses.

Business and commercial establishments:

Any of the following:

Banking and financial services;

Business and personal services;

Commercial retail and services;

Eating and drinking establishments;

General and professional offices;

Hotels, lodges and motels.

Medical and related facilities;

Private educational facilities; and

Shopping centers.

All proposed business and commercial establishments greater than ten thousand (10,000) square feet of gross floor area must secure site plan approval from council, with a recommendation from the commission.

Churches and related facilities;

Governmental offices and facilities.

Public utility distribution structures. (Ord. 2002-02, 1-17-2002)

9-11A-3: CONDITIONAL USES:

A. General Provisions:

1. Any permitted use reasonably anticipated to create one or more of the hazards listed (unusual traffic hazards, noise, dust, fumes, odors, smoke, vapor, vibration, glare, or industrial waste disposal problems) or any other environmental hazard shall require a conditional use permit.

2. Whenever an otherwise permitted use in the C-1 district becomes a conditional use because it may be reasonably anticipated to create unusual traffic hazards, noise, dust, fumes, odors, smoke, vapor, vibration, glare, or industrial waste disposal problems, such use shall only be approved with the following conditions:

- a. The use shall be operated within an enclosed structure;
- b. Noise, dust, fumes, odors, smoke, vapors vibration, glare, or waste shall be confined to the lot on which the use is permitted;
- c. Outdoor storage, equipment, and refuse areas shall be concealed from view by abutting residential districts and public rights of way; and
- d. Compliance with appropriate county, state and federal environmental and other regulations. (Ord. 2002-02, 1-17-2002)

B. Conditional Uses Enumerated:

Accessory building:

1. One per principal building.
2. Minimum of one hundred fifteen (115) square feet on a permanent foundation.

Flea markets.

Grazing: Granted in one year increments, in areas of forty (40) acres or larger. This is to be reviewed annually for continuation of permit based on contiguous land uses and impact on natural vegetation.

Mobile home park.

1. Minimum Lot Area: Four thousand (4,000) square feet.
2. Maximum Density: Eight (8) dwelling units per acre.
3. Minimum Front Lot Width: Forty feet (40').
4. Minimum Setbacks:
 - a. Minimum front setback: Ten feet (10') from any road frontage.
 - b. Minimum side setback: Eight feet (8').
 - c. Minimum rear setback: Five feet (5').
 - d. Minimum setback from all property lines: Fifteen feet (15').
5. Private Roadway Width: All internal private roads shall be twenty five feet (25') in width.
6. Location Of Mobile Homes; Access: No mobile home spaces are allowed to front on a public right of way; all access to individual mobile home spaces shall be on internal roadways.
7. Lighting And Landscaping: A night lighting plan and landscaping plan are required as part of the site plan.
8. Signs: Signage will be as per chapter 8 of this zoning code.

Planned unit development (PUD).

RV park.

1. Minimum Lot Size; Location: Three (3) acre minimum site located on an arterial or collector street.
2. Maximum Density: Twenty (20) spaces per acre.
3. Separation Between Units: Minimum twenty foot (20') separation between RV units.
4. Screening: RV park shall be screened with a six foot (6') opaque wall or fence.
5. Sanitary Facilities: If direct wastewater hookup is not available, then one each men/women full bathroom per ten (10) RV spaces is required to be provided.
6. Private Roadway Width: All internal private roads shall be a minimum of twenty five feet (25') wide.
7. Lighting And Landscaping: A night lighting plan and landscaping plan are required as part of the site plan.
8. Signs: Signage will be as per chapter 8 of this zoning code.

Recreational facilities.

Storage units. Either managed storage, self-storage, or shipping containers.

Vehicle and RV sales lots.

1. Outdoor sales area(s) shall be paved.
2. Service/maintenance/repair garage doors shall be screened from the public right of way(s).

3. A dealer's license is required as per New Mexico Statutes Annotated section 66-4.

4. All wrecked/dismantled vehicles shall be stored inside of a building or completely screened so as not visible from any adjacent lot or street. No outdoor storage is permitted. (Ord. 2002-02, 1-17-2002; amd. Ord. 2004-03, 4-20-2004; Ord. 2005-01, 1-20-2005)

9-11A-4: DEVELOPMENT STANDARDS:

A. Minimum Lot Area: No minimum required. Lot area must comply with minimum state requirements for water and wastewater standards.

B. Minimum Front Lot Width: Fifty feet (50').

C. Minimum Setbacks:

1. Minimum front setback: Ten feet (10') from any road frontage.
2. Minimum side setback: Ten feet (10') or zero lot line.
3. Minimum rear setback: Twenty feet (20').
4. Minimum setback from Mountain View Boulevard and Highway 64: Ten feet (10').

D. Minimum Principal Building Floor Area: One thousand two hundred (1,200) square feet (footprint-1,000 square feet).

E. Maximum Building Height: Thirty five feet (35').

F. Open Space: Ten percent (10%) of the lot area shall be open, unencumbered, and free of any building, structure, driveway or parking area. Village council may approve designated areas and adjustments to this provision with the consideration of an approved site plan.

G. Off Street Parking:

<u>Type Of Use</u>	<u>Parking Space Required</u>
Residential	2 spaces per unit
Hotel/motel	1 space for each sleeping unit, plus 1
Retail	1 space per 400 square feet of heated floor area
Office	1 space per 400 square feet of heated floor area
Bars and restaurants	1 space per 200 square feet

H. Private Roadways And Driveways: See section 9-7-12 of this zoning code.

I. Drive-Up Facilities: Businesses with drive-up windows or other drive-up facilities shall provide a stacking lane ten feet (10') in width and one hundred feet (100') in length leading up to each drive-up window. Drive-up windows are not allowed on commercially zoned lots adjacent to residentially zoned lots.

J. Clear Sight Triangles: Clear sight triangles shall be maintained at all points of ingress/egress to the public right of way.

K. Recreational Vehicles: Recreational vehicles (RVs), travel trailers, watercrafts, horse trailers, or utility trailers that measure more than four feet (4') high as measured from the ground, or more than twenty feet (20') in length, shall not be parked or stored in open unscreened areas or on any public right of way overnight. This provision does not apply to commercial vehicles, equipment, and trailers utilized on a day to day basis by a business registered with the village or village of Angel Fire vehicles, equipment or trailers, or approved RV parks. Any other vehicle parked on any lot, unless garaged or screened from view from any adjacent street or adjacent properties, must be operable.

L. Surface Water Runoff: The building and/or parking lot shall not adversely change water runoff onto adjacent lots or onto public rights of way.

(Ord. 2002-02, 1-17-2002; amd. Ord. 2004-03, 4-20-2004; Ord. 2005-01, 1-20-2005; Ord. 2024-01, 7-9-2024)

9-11A-5: MISCELLANEOUS PROVISIONS:

A. Propane Tanks:

1. Aboveground Or Underground Tanks: All propane tanks may be installed aboveground or underground. Tanks installed aboveground shall be screened from view by landscaping or by fencing as regulated by state statutes.

2. Location: A propane tank may not be located on or in a setback. The location of a propane tank shall be identified on the site plan.

B. Fences And Walls:

1. Fences and walls:

- a. Need a permit and/or must be on site plans.
 - b. Shall be architecturally appropriate.
 - c. Shall have the same setback from the road as the principal building.
2. The use of barbed wire and/or razor ribbon is prohibited.

C. Hazardous Activities: Any possible hazardous activity shall require a conditional use permit. Those include, but are not limited to, unusual traffic hazard or any significant noise, dust, vapor, fumes, odors, smoke, vibration, glare, explosives, or industrial waste disposal problems. (Ord. 2002-02, 1-17-2002)

ARTICLE B. C-2 GENERAL COMMERCIAL DISTRICT

SECTION:

9-11B-1: Purpose

9-11B-2: Permitted Uses

9-11B-3: Conditional Uses

9-11B-4: Development Standards

9-11B-5: Miscellaneous Provisions

9-11B-1: PURPOSE:

The intent for which the C-2 district is created is the use of land for commercial purposes and restricting limited industrial purposes, with customary accessory uses. All accessory equipment and materials shall be screened from view. (Ord. 2002-02, 1-17-2002)

9-11B-2: PERMITTED USES:

R-2 and R-3 residential; all permitted uses.

C-1 permitted uses; all provisions.

Auto repair, major.

Service oriented businesses.

Storage (facility) units. (Ord. 2002-02, 1-17-2002)

9-11B-3: CONDITIONAL USES:

A. General Provisions:

1. Any permitted use found to create one or more of the following hazards shall require a conditional use permit: unusual traffic hazards, noise, dust, fumes, odors, smoke, vapor, vibration, glare, or industrial waste disposal problems.

2. Whenever an otherwise permitted use in the C-2 district becomes a conditional use because it may be reasonably anticipated to create unusual traffic hazards, noise, dust, fumes, odors, smoke, vapor, vibration, glare, or industrial waste disposal problems, such use shall only be approved with the following conditions:

- a. The use shall be operated within an enclosed structure;
- b. Noise, dust, fumes, odors, smoke, vapors, vibration, glare, or waste shall be confined to the lot on which the use is permitted;
- c. Outdoor storage, equipment, and refuse areas shall be concealed from view by abutting residential districts and public rights of way; and
- d. Compliance with appropriate county, state and federal environmental and other regulations.

B. Conditional Uses Enumerated:

Adult use businesses, provided:

1. The property so used shall be a minimum of seven hundred fifty feet (750') from the nearest church or school, daycare or youthcamp, and a minimum of five hundred feet (500') from the nearest residence or residentially zoned property and three hundred feet (300') from any C-1 zone. These distances shall be measured from property line to property line, without regard to the route of normal traffic.

2. The property used shall be a minimum of one thousand feet (1,000') from any other existing adult bookstore or adult theater, measured from property line to property line, without regard to the route of normal traffic.

3. Outside advertising shall be limited to one identification sign, not to exceed twenty (20) square feet. Other advertisements, displays or promotional material shall not be visible to the public from a pedestrian sidewalk or walkway or from other areas, public or semipublic.

4. Buildings in which adult use businesses are located shall not be painted in garish colors or any other fashion to serve the same purpose as a sign. All windows, doors and other apertures shall be blackened or otherwise obstructed to prevent viewing of the interior of the establishment from without.

5. The purpose of these provisions is to reduce the adverse impact of adult bookstores and adult theaters upon the village neighborhoods by:

- a. Avoiding the concentration of uses that could cause or intensify physical and social blight;
- b. Improving the visual appearances of adult bookstores and adult theaters;
- c. Reducing the negative impacts of adult bookstores and adult theaters upon other business uses, neighborhood property values, residential areas and public and semipublic uses;
- d. Ensuring that adult bookstores and adult theaters will not impede redevelopment and neighborhood revitalization efforts; and
- e. Avoiding the occurrence of adult uses in heavily used public pedestrian areas.

Cannabis Establishment.

1. The property so used shall be a minimum of 300 feet from the nearest church, day care, school use, residence or residentially zoned property. These distances shall be measured from property line to property line, without regard to the route of normal traffic. A residential use shall only be considered if it is a separately platted main use.

2. Buildings in which a cannabis establishment use is located shall not be painted in garish colors or any other fashion to serve the same purpose as a sign.

3. Retail sale of cannabis products shall be limited to those hours during which the sale of alcoholic beverages at licensed liquor establishments for on-premises consumption is permitted under the statutes and regulations of the State of New Mexico.

Flea markets.

Grazing: Granted in one year increments, in areas of forty (40) acres or larger. This is to be reviewed annually for continuation of permit based on contiguous land uses and impact on natural vegetation.

RV parks and mobile home parks as per subsection 9-11A-3B of this zoning code.

RV storage: Recreational vehicles (RVs) shall not be parked or stored in open, unscreened areas or on any public right of way overnight except within an approved RV park or RV storage facility.

Storage units. Either managed storage, self-storage, or shipping containers.

Vehicle and RV sales lots per subsection 9-11A-3B of this chapter.

Wireless telecommunication towers:

1. Area Preservation: Preferred site location and development of wireless telecommunication facilities shall preserve the existing character of the surrounding land uses and buildings and the aesthetic visual character of the area. Where technically feasible, new facilities shall use the most preferred facility type. The order of preference for new facilities is as follows from most preferred to least preferred:

- a. Colocation on an existing tower;
- b. Antennas attached to existing structures such as buildings, light poles, and utility poles;
- c. Concealed or camouflaged facilities;
- d. Colocated with water tower or other public facilities;
- e. New towers/facilities under fifty feet (50') in height;
- f. New towers/facilities under one hundred feet (100') in height; and
- g. New towers/facilities over one hundred feet (100') in height.

2. Preferred Type And Location: New facilities shall use the most preferred facility type and locations where technically feasible, even if it results in an increase in the number of facilities or at a higher cost. A lesser preferred facility type may be permitted only if the applicant presents substantial evidence to show that it will have a lesser visual impact or is more technically necessary than the use of more preferred facilities.

3. Disfavored Facilities:

- a. Any site within a visual corridor as identified in the village master plan;
- b. Sites on ridgelines exposed to view from Mountain View Boulevard or Highway 64; and
- c. Sites adjacent to or very close to residential areas.

4. Design Requirements:

a. Height: New facilities shall not exceed one hundred fifty feet (150') in height.

b. Setback: The setback for towers is one hundred five percent (105%) of the tower height from all property lines; or setback may be reduced if there is a dedicated "fall zone" easement on adjacent properties; or setback may be thirty percent (30%) of tower height if the registered engineer who designed the tower can prove that in case of failure, the tower would be contained on site. Guys and accessory buildings must meet C-2 setbacks.

c. Colors And Materials: Towers and attached antennas must be painted or coated in a color that blends with the surrounding environment. All associated structures must be painted or otherwise match the same color as the tower.

d. Fencing: The tower and equipment building shall be fenced unless the tower is a flagpole, utility pole, or a camouflaged facility.

e. Lighting: Lighting on any tower is prohibited unless required by the federal aviation administration or by other applicable state or federal requirements. Motion detecting lighting may be used around equipment or accessory structures for security purposes.

f. Signs: Signage is limited to small nonilluminated identification and warning signs.

5. Terms Of Permit: Renewal of a conditional use permit shall be based on the compliance with the conditions of approval. (Ord. 2002-02, 1-17-2002; amd. 2003 Code; Ord. 2005-01, 1-20-2005; Ord. 2013-07, 8-13-2013; Ord. 2018-05, 11-13-2018; Ord. 2021-09, 10-12-2021)

9-11B-4: DEVELOPMENT STANDARDS:

A. Minimum Lot Area: No minimum required. Lot area must comply with minimum state requirements for water and wastewater standards.

B. Minimum Setbacks:

- 1. Minimum front setback: Ten feet (10') from any road frontage.
- 2. Minimum side setback: Ten feet (10') or zero lot line.
- 3. Minimum rear setback: Twenty feet (20').
- 4. Minimum setback from Mountain View Boulevard and Highway 64: Ten feet (10').

C. Minimum Floor Area: One thousand two hundred (1,200) square feet for each building.

D. Maximum Building Height: Thirty five feet (35').

E. Open Space: Ten percent (10%) of the lot area shall be open, unencumbered, and free of any building, structure, driveway or parking area. Village council may approve designated areas and adjustments to this provision with the consideration of an approved site plan.

F. Minimum Off Street Parking Requirements:

<u>Type Of Use</u>	<u>Parking Space Required</u>
Business	1 space per 200 square feet of heated floor area
Housing	Minimum of 2 spaces for each residential unit, plus 1/2 space per each bedroom permitted over 2
Hotel/motel	1 space for each sleeping unit, plus 1 additional space per 500 square feet of office and nonsleeping unit areas. If a business is contained in/on the hotel property, it shall provide off street parking as follows:
Retail	1 space per 400 square feet of heated floor area
Office	1 space per 400 square feet of heated floor area
Bars and restaurants	1 space per 200 square feet

G. Private Roadways And Driveways: See section9-7-12 of this zoning code.

H. Drive-Up Facilities: Businesses with drive-up windows or other drive-up facilities shall provide a stacking lane ten feet (10') in width and one hundred feet (100') in length leading up to each drive-up window. Drive-up windows are not allowed on commercially zoned lots adjacent to residentially zoned lots.

I. Clear Sight Triangles: Clear sight triangles shall be maintained at all points of ingress/egress to the public right of way.

J. Recreational Vehicles: Recreational vehicles (RVs), travel trailers, watercrafts, horse trailers, or utility trailers that measure more than four feet (4') high as measured from the ground, or more than twenty feet (20') in length, shall not be parked or stored in open, unscreened areas or on any public right of way overnight. This provision does not apply to

commercial vehicles, equipment, and trailers utilized on a day to day basis by a business registered with the village or village of Angel Fire vehicles, equipment or trailers, or approved RV parks. Any other vehicle parked on any lot, unless garaged or screened from view from any adjacent street or adjacent properties, must be operable.

K. Surface Water Runoff: The building and/or parking lot shall not adversely change water runoff onto adjacent lots or onto public rights of way.

L. Screening: All materials and equipment shall be screened from view. (Ord. 2002-02, 1-17-2002; amd. Ord. 2005-01, 1-20-2005; Ord. 2024-01, 7-9-2024)

9-11B-5: MISCELLANEOUS PROVISIONS:

A. Propane Tanks:

1. Aboveground Or Underground Tanks: All propane tanks may be installed aboveground or underground. Tanks installed aboveground shall be screened from view by landscaping or by fencing as regulated by state statutes.

2. Location: A propane tank may not be located on or in a setback. The location of a propane tank shall be identified on the site plan.

B. Fences And Walls:

1. Permit required; eight foot (8') maximum height.

2. All commercial fences and walls must be architecturally compatible with the principal building(s).

3. The use of barbed wire or razor ribbon is prohibited.

C. Hazardous Activities: Any possible hazardous activity shall require a conditional use permit. Those include, but are not limited to, unusual traffic hazard or any significant noise, dust, vapor, fumes, odors, smoke, vibration, glare, explosives, or industrial waste disposal problems. (Ord. 2002-02, 1-17-2002)

ARTICLE C. MVB - MOUNTAIN VIEW BOULEVARD NORTH CORRIDOR OVERLAY ZONE

SECTION:

9-11C-1: Purpose

9-11C-2: Permitted Uses

9-11C-3: Conditional Uses

9-11C-4: Development Standards

9-11C-5: Architectural Guidelines

9-11C-6: Miscellaneous Standards

9-11C-1: PURPOSE:

The purpose for which the overlay district is created is to ensure that the Village's principal arterial streets are developed in a consistent and orderly manner that complements the natural setting of the Moreno Valley.

Currently, there are very few buildings in Angel Fire that are fifty (50) years old to qualify as historical. There is not an existing historical area to preserve. In corporate America, we are witnessing the homogenization of most cities and towns to the point that it is difficult to distinguish one main street from another. (Ord. 2016-04, 7-12-2016)

9-11C-2: PERMITTED USES:

A. All of the permitted uses of the underlying zone. (Ord. 2016-04, 7-12-2016)

9-11C-3: CONDITIONAL USES:

A. All of the conditional uses of the underlying zone, with the exception of the following:

B. Cannabis Establishments.

1. Regardless of the underlying zoning district, the property so used shall be a minimum of 300 feet from the nearest church, day care, school use, or residentially zoned property. These distances shall be measured from property line to property line, without regard to the route of normal traffic. This use is only permitted on the west side of State Highway 434.

2. Buildings in which a marijuana establishment use is located shall not be painted in garish colors or any other fashion to serve the same purpose as a sign.

3. Retail sale of cannabis products shall be limited to those hours during which the sale of alcoholic beverages at licensed liquor establishments for on-premises consumption is permitted under the statutes and regulations of the State of New Mexico. (Ord. 2016-04, 7-12-2016; amd. Ord. 2021-09, 10-12-2021)

9-11C-4: DEVELOPMENT STANDARDS:

A. Area Covered By Overlay Zone: All lots, tracts, and parcels that share a common boundary with Mountain View Boulevard or with U.S. Highway 64 shall be included in this overlay zone excluding R-1 Single Family, O-3 Greenbelts and O-4 Golf Course and Recreation areas.

B. Minimum Lot Area: Five thousand (5,000) square feet.

C. Minimum Front Lot Width: Fifty feet (50').

D. Building Setbacks:

1. Minimum front setback: Fifty feet (50') from Mountain View Boulevard or U.S. Highway 64.

2. Minimum side setback: Ten feet (10').

3. Minimum rear setback: Twenty feet (20').

E. Maximum Building Height: Forty feet (40'); chimneys, forty five feet (45').

F. Open Space: Ten percent (10%) of the lot area shall be open, unencumbered, and free of any building or structure. Village council may approve designated areas and adjustments to this provision with the consideration of an approved site plan.

G. Site Plan Approval Required: All additions and/or new commercial and residential projects must secure site plan approval from Council, with a recommendation from the commission prior to the issuance of a building permit.

H. Parking: The following requirements are in addition to the parking requirements in section 9-7-4 of this title:

1. Employee Parking: Must show spaces or a plan for employee parking on site plan prior to approval.

I. Subdivision: Any subdivision of any lot, tract, or parcel must be approved by Council with a recommendation from the Planning and Zoning Commission.

(Ord. 2016-04, 7-12-2016; amd. Ord. 2024-01, 7-9-2024)

9-11C-5: ARCHITECTURAL GUIDELINES:

Generally accepted architectural styles shall be compatible with Angel Fire alpine environment and may include alpine mountain or territorial/Spanish revival styles.

These are characterized by deep eaves, heavy timber, rough finishes of wood and stone, steeply pitched roofs with prominent and varied roof planes. Parapet walls with earth tone stucco finishes, deep eaves, exposed wood window lintels, rounded corners on walls, doors and windows, and multiple facades stepped up and set back with each building level.

A. Mass Limitation: All additions and/or new commercial and residential construction that exceeds a twenty thousand (20,000) square foot footprint shall be designed in such a way that the massing appears to the viewer as two (2) or more building blocks.

B. Pedestrian Features: Buildings with facades that are greater than one hundred feet (100') in width shall be visually broken up with mature landscaping (see section 9-7-5 of this title), portals, covered walkways, courtyards or other design features that are pedestrian friendly. Facades shall incorporate at least one (1) or a combination of the following features along a minimum of fifty percent (50%) of the length of the primary facade:

1. Display windows where the overall glass height is a minimum of forty eight inches (48"), provided the sill height does not exceed forty five inches (45") above the finished floor and they shall not be mirrored or opaque along the ground floor.

2. Doors/entrances.

3. Portals, arcades, canopies, trellises, or awnings associated with windows or other three-dimensional elements that provide shade and/or weather protection.

4. Raised planters located adjacent to the facade, with living, vegetative materials such as ornamental grasses, vines, spreading shrubs, flowers, or trees.

5. Pedestrian sidewalks, a minimum of eight feet (8') in width, shall be provided along the entire length of major facades containing building entrances.

C. Building Facades: In order to avoid blank building facades, facades shall incorporate at least one (1) of the following features:

1. Wall plane projections or recesses shall be at least two feet (2') in depth, occurring at least every one hundred feet (100').

2. A vertical change in color, texture, or material occurring every fifty (50) linear feet.

3. A change in visible roof plane or parapet height (in the case of pueblo/Spanish revival style) for every one hundred feet (100') in length.

D. Color:

1. Stucco and faux rocks of earth tone shades of brown, clay or coral with wood stained trim or colored accents.

2. Wood/faux wood sided buildings using natural stains or earth tone colors.
3. The painting of any part of buildings with bold patterns, checks, and using buildings as signs is prohibited.

E. Rooflines:

1. A minimum twelve inch (12") overhang is required unless parapet walls are utilized in the design.
2. The use of dormer windows is encouraged. Parapet walls shall conceal the roofline completely.
3. Parapet roof downslopes shall face away from Mountain View Boulevard and U.S. Highway 64.
4. Entryways shall be designed to shed water and snow away from entries.
5. For roof materials, see subsection 9-7-11E of this title.

F. Doors And Windows: The combined door and window area in any publicly visible facade shall not exceed forty percent (40%) of the total area of the facade, except for the use of large display windows located under the portals/walkways of commercial buildings and applications of passive solar features.

G. Garage Doors And Drive-Through Facilities: Unscreened garage doors, automobile service bays and drive-through facilities shall not be located facing Mountain View Boulevard.

H. Building Service Areas: Areas for loading and unloading, trash collection and disposal, and utility services must be located away from and screened from view from Mountain View Boulevard or U.S. Highway 64.

I. Mechanical Design: All heating/cooling and other mechanical equipment mounted on the building must be screened from view by an architectural element of the building. Overhead wiring is prohibited.

J. Signage:

1. Only backlit signs are permitted as lighted attached signage. Monument signs may be downlighted as long as there is no light spillage to adjacent sites.
2. Canopy signage displaying company logos are permitted and will not be counted as part of the permitted signage, provided there is no text. Text on canopies will be calculated as part of the permitted freestanding signage.
3. Sign frames and posts shall be made of heavy timber. Other materials such as metal or concrete frames shall be stuccoed or have a wood veneer.
4. All other provisions of chapter 8 of this title shall apply.

K. Solar Applications: Solar and other energy collecting and conserving features are strongly encouraged to be incorporated into the structure.

1. Solar features shall be hidden from public view by a screening device or disguise. Screening methods include: benches, berms, landscaping or buildings to block from public view, and ground mounted apparatus. Reflected glare on nearby buildings, streets or pedestrian areas shall be avoided.

2. Solar wind turbines are permitted provided they do not exceed fifteen feet (15') in height measured from the ground.

L. Vehicular Access: Vehicular access to the site shall be from streets other than Mountain View Boulevard wherever possible. These streets shall be perpendicular to and connected to Mountain View Boulevard. However, if it is determined that vehicular access will be from Mountain View Boulevard, then ingress/egress shall be limited to two (2) driveways and will include an acceleration and deceleration lane as per NMDOT specifications.

M. Landscape/Screening: Landscape screening shall be provided where nonresidential development abuts residential zoning and along Mountain View Boulevard within the ten foot (10') landscape setback.

1. Landscape Strip: A landscape strip at least ten feet (10') in width shall be provided along the residential/nonresidential zone.

2. Buffer Landscaping: The buffer landscaping should consist of a mix of evergreen trees and deciduous trees. It can also be berming with shrubs and plants or mulch and moss rocks.

3. Wall Or Fence Required: Where parking or vehicle circulation areas are adjacent to the landscaping strip, a minimum six foot (6') high opaque wall or fence shall also be required to visually screen the parking or circulation area from the adjacent residential zone; chain-link fence with slats shall not constitute acceptable screening.

4. Provisions: All other provisions of section 9-7-5 of this title apply.

N. Lighting: The following requirements are in addition to the requirements in section 9-7-8 of this title:

1. The maximum height of a light pole in commercial development that falls within one hundred feet (100') of a residential zone shall be sixteen feet (16') measured from the finished grade to the top of the pole.

2. All other provisions of section 9-7-8 of this title apply. (Ord. 2016-04, 7-12-2016)

9-11C-6: MISCELLANEOUS STANDARDS:

A. All of the miscellaneous standards of the underlying zone shall apply.

B. 1. Screening Of Recreational/Commercial Vehicles And Equipment: All recreational vehicles as well as all commercial vehicles, that are over one (1) ton, used in support of a business or any other commercial equipment parked on any lot within the MVB Overlay District shall be screened from public view and all adjacent rights-of-way.

2. For Sale/Abandoned: Any vehicle with a for sale sign must belong to the property owner. Any vehicle left unmoved for seventy two (72) hours will be considered abandoned.

3. Landscaping: The use of large caliper conifer trees is encouraged for this screening. Live vegetation used for screening from Mountain View Boulevard shall be exempted from the building permit. See section 9-7-5 of this title for additional landscaping provisions. (Ord. 2016-04, 7-12-2016)

ARTICLE D. HC HEAVY COMMERCIAL ZONE

SECTION:

9-11D-1: Purpose

9-11D-2: Permitted Uses

9-11D-3: Conditional Uses

9-11D-4: Development Standards

9-11D-5: Architectural Standards

9-11D-1: PURPOSE:

The purpose for which the HC district is created is to ensure that the village can readily accommodate land uses associated with fabrication, assembly, construction oriented businesses and support services that are necessary to complement and expand the economy of the village and in a manner consistent with the resort character of the village. Other retail sales, commodities, and professional services not listed below are prohibited land uses within this district. (Ord. 2010-04, 5-4-2010)

9-11D-2: PERMITTED USES:

Assembly and bottling plants, provided yard area is screened from adjacent properties with a solid fence construction a minimum of eight feet (8') high.

Automobile, boat, motorcycle and recreational vehicle sales and service.

Contractors' offices, shops, and yards.

Exterior storage of goods and materials provided said goods and materials are screened from adjacent properties and all adjacent rights of way with a solid fence construction a minimum of eight feet (8') high.

Feed, grain and related sales and storage.

Firewood sale, splitting and storage, provided yard area is screened from adjacent properties with a solid fence construction a minimum of six feet (6') high.

Freight houses and truck terminals.

Fuel storage facilities.

Heavy equipment sales or service or repair, provided yard area is screened from adjacent properties with a solid fence construction a minimum of eight feet (8') high.

Metal work and machine shops, provided yard area is screened from adjacent properties with a solid fence construction a minimum of eight feet (8') high.

Warehousing, storage, distribution of bulk goods.

Welding shops for repair of vehicles and equipment, provided yard area is screened from adjacent properties with a solid fence construction a minimum of six feet (6') high.

Workforce apartments integrated within the commercial structure provided said dwellings do not occupy more than twenty percent (20%) of the total floor area. (Ord. 2010-04, 5-4-2010)

9-11D-3: CONDITIONAL USES:

Any permitted use found to create one or more of the following hazards shall require a conditional use permit: unusual traffic hazard, noise, dust, fumes, odor, smoke, vapor, vibration, glare, or industrial waste disposal problems.

Auto body and paint shop, provided all structures are one hundred feet (100') away from any adjacent residential district boundary.

Kennels, commercial.

Recycling collection and separating and storage facilities.

Stables, commercial.

Wireless telecommunication towers, see section 9-11B-3 of this chapter.

Wrecker service. (Ord. 2010-04, 5-4-2010; amd. Ord. 2018-05, 11-13-2018; Ord. 2021-09, 10-12-2021)

9-11D-4: DEVELOPMENT STANDARDS:

A. Minimum Lot Area: Ten thousand (10,000) square feet. Lots that were legally platted into sizes less than ten thousand (10,000) square feet before December 31, 1999, are considered developable, nonconforming lots.

B. Minimum Lot Frontage: One hundred feet (100'); forty feet (40') on a cul-de-sac.

C. Minimum Setbacks:

1. Minimum front setback: Twenty feet (20') from any road frontage.
2. Minimum side setback: Twenty feet (20').
3. Minimum rear setback: Twenty feet (20').

D. Maximum Building Height: Thirty five feet (35').

E. Minimum Off Street Parking Requirements:

1. One space per four hundred (400) square feet of interior office/retail/display space; and
2. One space per one thousand (1,000) square feet of heated shop/plant space or one space per employee on the shift with the maximum number of employees; whichever is greater. (Ord. 2010-04, 5-4-2010)

9-11D-5: ARCHITECTURAL STANDARDS:

Generally accepted architectural styles shall be compatible with Angel Fire alpine environment and may include alpine mountain style and pueblo/Spanish revival style or a combination of these two.

A. Use Of Metal Buildings: Metal siding is permitted on all sides that do not face a public right of way, provided the total square footage of the building does not exceed five thousand (5,000) square feet. Permitted colors are limited to nonreflective shades of green and brown. All other colors or buildings larger than five thousand (5,000) square feet will require a conditional use permit as defined in chapter 5 of this title. In either case of permitted or CUP application, a physical sample of the siding must be submitted with the building permit application or the CUP application.

B. Roofline: A minimum one to twelve (1:12) pitch and a minimum six inch (6") overhang are required unless parapet walls are utilized in the design. For roof materials, see subsection 9-7-11E of this title.

C. Building Service Areas: Areas for loading and unloading, trash collection and disposal, and utility services must be located away from and screened from view from all public rights of way. (Ord. 2010-04, 5-4-2010)

CHAPTER 12

O DISTRICTS

ARTICLE A. O-1 CORE DISTRICT

SECTION:

9-12A-1: Purpose

9-12A-2: Permitted Uses

9-12A-3: Conditional Uses

9-12A-4: Development Standards

9-12A-5: Miscellaneous Provisions

9-12A-1: PURPOSE:

The O-1 district is created to provide areas for a compact, pedestrian oriented, high density center near the ski area with a mix of employment, business, retail and multi-family uses. (Ord. 2002-02, 1-17-2002)

9-12A-2: PERMITTED USES:

All R-3 permitted uses and all C-1 provisions (except as noted in the development standards). (Ord. 2015-01, 11-17-2015)

9-12A-3: CONDITIONAL USES:

None at this time. (Ord. 2013-07, 8-13-2013)

9-12A-4: DEVELOPMENT STANDARDS:

A. Minimum Lot Area: No minimum required. Lot area must comply with minimum state requirements for water and wastewater standards.

B. Setbacks:

1. Front Setbacks:

- a. Minimum front setback: Five feet (5') from any road frontage.
- b. Maximum front setback: Twenty feet (20') from any road frontage.

2. Minimum Side Setback: Eight feet (8') or zero lot line.

3. Minimum Rear Setback: Ten feet (10').

C. Minimum Floor Area: One thousand two hundred (1,200) square feet for each building; minimum footprint is one thousand (1,000) square feet.

D. Accessory Buildings: No accessory buildings allowed.

E. Maximum Building Height: Forty five feet (45').

F. Open Space: Ten percent (10%) of the lot area shall be open, unencumbered, and free of any building, structure, driveway or parking area. Village council may approve designated areas and adjustments to this provision with the consideration of an approved site plan.

G. Off Street Parking Requirements:

1. Minimum Requirements:

<u>Type Of Use</u>	<u>Parking Space Required</u>
Business	1 space per 400 square feet of heated floor area
Hotel/motel	1 space for each sleeping unit, plus 1 additional space per 500 square feet of office and nonsleeping unit areas. If a business is contained in/on the hotel property, it shall provide off street parking as follows:
Bars and restaurants	1 space per 200 square feet
Office	1 space per 400 square feet of heated floor area
Retail	1 space per 400 square feet of heated floor area
Housing	1 space per dwelling unit

2. Variances: Parking requirements may be varied in the O-1 district if a site plan is approved by the council with commission recommendation on construction projects of ten thousand (10,000) square feet or more. Variation may include locating the required parking to be at the perimeter of the development.

H. Drive-Up Facilities: Businesses with drive-up windows or other drive-up facilities shall provide a stacking lane ten feet (10') in width and one hundred feet (100') in length leading up to each drive-up window. Drive-up windows are not allowed on commercially zoned lots adjacent to residentially zoned lots.

I. Clear Sight Triangles: Clear sight triangles shall be maintained at all points of ingress/egress to the public right of way.

J. Recreational Vehicles: Recreational vehicles (RVs) shall not be parked in open, unscreened areas or on any public right of way overnight except within an approved RV park.

K. Surface Water Runoff:

1. Private roadways and driveways shall not be constructed so as to drain onto the street.

2. The building and/or parking lot shall not adversely change water runoff onto adjacent lots or onto public rights of way.

L. Minimum Lot Width: Twenty five feet (25').

(Ord. 2002-02, 1-17-2002; amd. Ord. 2005-01, 1-20-2005; Ord. 2024-01, 7-9-2024)

9-12A-5: MISCELLANEOUS PROVISIONS:

A. Landscaping: See section 9-7-5 of this title.

B. Propane Tanks: See section 9-7-7 of this title.

C. Exterior Lighting: See section 9-7-8 of this title.

- D. Fences And Walls: See section 9-7-10 of this title.
- E. Architectural Appropriateness: See section 9-7-11 of this title.
- F. Hazardous Activities: No hazardous activity shall be permitted. (Ord. 2002-02, 1-17-2002)

ARTICLE B. O-2 MIXED USE DISTRICT

SECTION:

9-12B-1: Purpose

9-12B-2: Permitted Uses

9-12B-3: Development Standards

9-12B-4: Miscellaneous Provisions

9-12B-1: PURPOSE:

The O-2 district is created to provide areas for a compact, pedestrian oriented, high density center with a mix of employment, business, retail and multi-family uses. (Ord. 2002-02, 1-17-2002)

9-12B-2: PERMITTED USES:

All R-3 permitted uses and all C-1 provisions (except as noted in the development standards).

Planned unit development (PUD).

Any permitted uses shall be acceptable so long as the use does not create unusual traffic hazard or any significant noise, dust, vapor, fumes, odors, smoke, vibration, glare, or industrial waste disposal problems. (Ord. 2002-02, 1-17-2002; amd. Ord. 2015-01, 11-17-2015)

9-12B-3: DEVELOPMENT STANDARDS:

A. Minimum Lot Area: No minimum required. Lot area must comply with minimum state requirements for water and wastewater standards.

B. Setbacks:

1. Front Setbacks:
 - a. Minimum front setback: Five feet (5') from any frontage.
 - b. Maximum front setback: Twenty feet (20') from any frontage.
2. Minimum Side Setback: Ten feet (10') or zero lot line.
3. Minimum Rear Setback: Fifteen feet (15').
4. Minimum Setback From Mountain View Boulevard: Ten feet (10').

C. Minimum Floor Area: One thousand two hundred (1,200) square feet for each building; minimum footprint is one thousand (1,000) square feet.

D. Accessory Buildings: No accessory buildings allowed.

E. Maximum Building Height: Forty feet (40').

F. Open Space: Ten percent (10%) of the lot area shall be open, unencumbered, and free of any building, structure, driveway, or parking area. Village council may approve designated areas and adjustments to this provision with the consideration of an approved site plan.

G. Off Street Parking Requirements:

1. Minimum Requirements:

<u>Type Of Use</u>	<u>Parking Space Required</u>
Business	1 space per 400 square feet of heated floor area
Hotel/motel	1 space for each sleeping unit, plus 1 additional space per 500 square feet of office and nonsleeping unit areas. If a business is contained in/on the hotel property, it shall provide off street parking as follows:
Bars and restaurants	1 space per 200 square feet
Office	1 space per 400 square feet of heated floor area
Retail	1 space per 400 square feet of heated floor area

2. Variances: Parking requirements may be varied in the O-2 district if a site plan is approved by the council with commission recommendation on construction projects of ten thousand (10,000) square feet or more. Variation may include locating the required parking to be at the perimeter of the development.

H. Drive-Up Facilities: Businesses with drive-up windows or other drive-up facilities shall provide a stacking lane ten feet (10') in width and one hundred feet (100') in length leading up to each drive-up window.

I. Clear Sight Triangles: Clear sight triangles shall be maintained at all points of ingress/egress to the public right of way.

J. Recreational Vehicles: Recreational vehicles (RVs) shall not be parked in open, unscreened areas or on any public right of way overnight except within an approved RV park.

K. Surface Water Runoff:

1. Private roadways and driveways shall not be constructed so as to drain onto the street.

2. The building and/or parking lot shall not adversely change water runoff onto adjacent lots or onto public rights of way.

L. Grazing: Granted in one year increments, in areas of forty (40) acres or larger. This is to be reviewed annually for continuation of permit based on contiguous land uses and impact on natural vegetation.

M. Minimum Lot Width: Twenty five feet (25').

(Ord. 2002-02, 1-17-2002; amd. Ord. 2005-01, 1-20-2005; Ord. 2024-01, 7-9-2024)

9-12B-4: MISCELLANEOUS PROVISIONS:

A. Landscaping: See section 9-7-5 of this title.

B. Propane Tanks: See section 9-7-7 of this title.

C. Exterior Lighting: See section 9-7-8 of this title.

D. Fences And Walls: See section 9-7-10 of this title.

E. Architectural Appropriateness: See section 9-7-11 of this title.

F. Hazardous Activities: No hazardous activity shall be permitted. (Ord. 2002-02, 1-17-2002)



ARTICLE C. O-3 GREENBELTS AND OPEN SPACE DISTRICT

SECTION:

9-12C-1: Purpose

9-12C-2: Permitted Uses

9-12C-3: Conditional Uses

9-12C-1: PURPOSE:

The O-3 district is created to provide open areas, common benefit structures, and park areas as well as utility and ingress/egress easements. (Ord. 2002-02, 1-17-2002)

9-12C-2: PERMITTED USES:

Outdoor recreational uses, with motorized vehicle usage limited to snowmobiles and ATVs. (Ord. 2002-02, 1-17-2002)

9-12C-3: CONDITIONAL USES:

Buildings associated with the recreational use. (Ord. 2002-02, 1-17-2002)



ARTICLE D. O-4 GOLF COURSE AND RECREATION DISTRICT

SECTION:

9-12D-1: Purpose

9-12D-2: Areas Included

9-12D-3: Permitted Uses

9-12D-4: Conditional Uses

9-12D-5: On Premises Signs

9-12D-1: PURPOSE:

The O-4 District is created to provide areas for recreational use other than alpine skiing. (Ord. 2002-02, 1-17-2002)

9-12D-2: AREAS INCLUDED:

Angel Fire Resort Fairgrounds.

Angel Fire Resort Golf Course.

Angel Fire Resort Membership RV Park and Stables.

Angel Fire Resort Monte Verde Lake.

Angel Fire Resort Olympic Park.

Village of Angel Fire Allen Fields Sports Facility. (Ord. 2019-04, 4-16-2019)

9-12D-3: PERMITTED USES:

Outdoor recreational uses and associated activities. (Ord. 2019-04, 4-16-2019)

9-12D-4: CONDITIONAL USES:

Buildings associated with recreation and outdoor activity, including shipping containers that are sided with wood, screened from view with trees or fences. (Ord. 2019-04, 4-16-2019)

9-12D-5: ON PREMISES SIGNS:

At each of the areas described in section9-12D-2 of this article, the following freestanding monument signage shall be permitted:

- A. Directional signs: A maximum of sixteen (16) square feet of face area, not to exceed a height of six feet (6').
- B. Facility signs: A maximum of forty (40) square feet of face area, not to exceed a height of nine feet (9'). (Ord. 2012-01, 1-10-2012)
- C. Freestanding entry sign: One freestanding sign per facility listed in section9-12D-2 of this article with a maximum of seventy five (75) square feet of sign face area of which thirty three percent (33%) must be dedicated to identifying the area. Said sign shall not be higher than fifteen feet (15') from the ground and shall be designed and constructed to withstand a ninety five (95) mile per hour wind. Signs shall have all supports, frames and posts painted or otherwise finished. (Ord. 2013-03, 5-14-2013)



ARTICLE E. O-5 SKI AREA, RECREATIONAL DISTRICT

SECTION:

9-12E-1: Purpose

9-12E-2: Permitted Uses

9-12E-3: Conditional Uses

9-12E-4: Landscaping

9-12E-5: Public Buildings

9-12E-6: Wind Energy Facilities

9-12E-1: PURPOSE:

The ski area/recreational district is primarily for outdoor recreational use, including support facilities and associated commercial structures. Nonpublic structures that are not subject to state or federal regulation will be regulated by the village. All buildings for public use will conform to O-1 district regulations and the building and zoning codes. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

9-12E-2: PERMITTED USES:

Accessory uses and buildings generally associated with a recreation or outdoor activity.

On premises signs as defined in section9-12D-5 of this chapter.

Recreation or outdoor uses. Including summer recreation; hiking, mountain biking, zip lines, festivals and concerts and similar activities. (Ord. 2002-02, 1-17-2002; amd. Ord. 2012-01, 1-10-2012; Ord. 2013-07, 8-13-2013)

9-12E-3: CONDITIONAL USES:

A. General Provisions: Any of the permitted uses listed in section9-12E-2 of this article shall be conditional if the use does create unusual traffic hazard or any significant noise, dust, vapor, fumes, odors, smoke, vibration, glare, or industrial waste disposal problems. If one of these conditions exists, a conditional use permit shall be required.

B. Conditional Uses Enumerated:

Grazing: Granted in one year increments, in areas of forty (40) acres or larger. This is to be reviewed annually for

continuation of permit based on contiguous land uses and impact on natural vegetation. (Ord. 2002-02, 1-17-2002)

9-12E-4: LANDSCAPING:

Retail areas within this zone shall be landscaped as regulated by section 9-7-5 of this title. (Ord. 2002-02, 1-17-2002)

9-12E-5: PUBLIC BUILDINGS:

All public buildings and surrounding areas shall conform to the O-1 district requirements. (Ord. 2002-02, 1-17-2002)

9-12E-6: WIND ENERGY FACILITIES:

The construction and operation of wind energy facilities in the village, subject to reasonable conditions that will protect the public health, safety and welfare.

A. Definitions:

FACILITY OWNER: The entity or entities having an equity interest in the wind energy facility, including their respective successors and assigns.

HUB HEIGHT: The distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blade is attached.

OPERATOR: The entity responsible for the day to day operation and maintenance of the wind energy facility.

TURBINE HEIGHT: The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

WIND ENERGY FACILITY: An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

WIND FIN: A wind energy conversion system that uses small scale (less than 10 kW) devices, generally mounted on the ground, rather than on tall towers, and uses a vertical method to turn the fins, rather than being mounted on tall towers or using large scale (greater than 10 kW) horizontal propeller type turbines.

WIND TURBINE: A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

B. Applicability:

1. This section applies to all wind energy facilities proposed to be constructed after the effective date hereof, except that this section is not intended to apply to stand alone wind turbines constructed primarily for residential or farm use.

2. Wind energy facilities constructed prior to the effective date hereof shall not be required to meet the requirements of this section; provided that any physical modification to an existing wind energy facility that materially alters the size, type and number of wind turbines or other equipment shall require a permit under this section.

C. Permitted Use: A wind energy facility shall be considered a conditional use in the O-5 district.

D. Permit Requirement:

1. No wind energy facility, or addition of a wind turbine to an existing wind energy facility, shall be constructed or located within Angel Fire unless a permit has been issued to the facility owner or operator approving construction of the facility under this title.

2. Any physical modification to an existing and permitted wind energy facility that materially alters the size, type and number of wind turbines or other equipment shall require a permit modification under this section. Like kind replacements shall not require a permit modification.

E. Permit Application:

1. The permit application shall demonstrate that the proposed wind energy facility will comply with this section.

2. Among other things, the application shall contain the following:

a. A narrative describing the proposed wind energy facility, including an overview of the project; the project location; the approximate generating capacity of the wind energy facility; the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.

b. An affidavit or similar evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the wind energy facility.

c. Identification of the properties on which the proposed wind energy facility will be located, and the properties adjacent to where the wind energy facility will be located.

d. A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all

structures within the geographical boundaries of any applicable setback.

e. Documents related to decommissioning.

f. Other relevant studies, reports, certifications and approvals as may be reasonably requested by the village to ensure compliance with this section.

F. Design And Installation:

1. Design Safety Certification: The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.

2. Uniform Construction Code: To the extent applicable, the wind energy facility shall comply with the New Mexico building codes.

3. Controls And Brakes: All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

4. Electrical Components: All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.

5. Visual Appearance; Power Lines:

a. Wind turbines shall be a nonobtrusive color such as forest green or dark blue.

b. Wind energy facilities shall not be artificially lighted, except to the extent required by the federal aviation administration or other applicable authority that regulates air safety.

c. Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner and operator, not to exceed ten (10) square feet.

d. On site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.

6. Warnings:

a. A clearly visible warning sign concerning voltage must be placed at the base of all pad mounted transformers and substations.

b. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guywires and along guywires up to a height of ten feet (10') from the ground.

7. Climb Prevention/Locks:

a. Wind turbines shall not be climbable up to fifteen feet (15') above ground surface.

b. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by nonauthorized persons.

G. Setbacks:

1. Occupied Buildings:

a. Wind turbines shall be set back from the nearest occupied building a distance not less than the normal setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.

b. Wind turbines shall be set back from the nearest occupied building located on a nonparticipating landowner's property a distance of not less than five (5) times the hub height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.

2. Property Lines: All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the nearest property line.

3. Public Roads: All wind turbines shall be set back from the nearest public road a distance of not less than 1.1 times the turbine height, as measured from the right of way line of the nearest public road to the center of the wind turbine base.

H. Use Of Public Roads:

1. The applicant shall identify all state and local public roads to be used within the village to transport equipment and parts for construction, operation or maintenance of the wind energy facility.

2. The village's engineer or a qualified third party engineer hired by the village and paid for by the applicant, shall

document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

3. The village may bond the road in compliance with state regulations.
4. Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.
5. The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

I. Local Emergency Services:

1. The applicant shall provide a copy of the project summary and site plan to local emergency services, including paid or volunteer fire department(s).
2. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.

J. Noise And Shadow Flicker:

1. Audible sound from a wind energy facility shall not exceed fifty (50) dBA, as measured at the exterior of any occupied building on a nonparticipating landowner's property. Methods for measuring and reporting acoustic emissions from wind turbines and the wind energy facility shall be equal to or exceed the minimum standards for precision described in AWEA standard 2.1 - 1989 titled "Procedures For The Measurement And Reporting Of Acoustic Emissions From Wind Turbine Generation Systems Volume I: First Tier".
2. The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a nonparticipating landowner's property.

K. Waiver Of Noise And Shadow Flicker Provisions:

1. Property owners may waive the noise and shadow flicker provisions of this section by signing a waiver of their rights.
2. The written waiver shall notify the property owner(s) of the sound or flicker limits in this title, describe the impact on the property owner(s), and state that the consent is granted for the wind energy facility to not comply with the sound or flicker limits in this title.
3. Any such waiver shall be recorded in the office of the Colfax County clerk. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of sound or flicker limits shall run with the land and may forever burden the subject property.

L. Signal Interference: The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind energy facility.

M. Liability Insurance: There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate. Certificates shall be made available to the village upon request.

N. Decommissioning:

1. The facility owner and operator shall, at its expense, complete decommissioning of the wind energy facility, or individual wind turbines, within twelve (12) months after the end of the useful life of the facility or individual wind turbines. The wind energy facility or individual wind turbines will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
2. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of thirty six inches (36"), and any other associated facilities.
3. Disturbed earth shall be graded and reseeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
4. An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning ("decommissioning costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("net decommissioning costs"). Said estimates shall be submitted to the village after the first year of operation and every fifth year thereafter.
5. The facility owner or operator shall post and maintain decommissioning funds in an amount equal to net decommissioning costs; provided that at no point shall decommissioning funds be less than twenty five percent (25%) of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or federal or commonwealth chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the commonwealth and is approved by the village.
6. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the village.
7. If the facility owner or operator fails to complete decommissioning within the period prescribed by subsection N1 of

this section, then the landowner shall have six (6) months to complete decommissioning.

8. If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed by subsections N1 and N7 of this section, then the village may take such measures as necessary to complete decommissioning.

9. The escrow agent shall release the decommissioning funds when the facility owner or operator has demonstrated and the municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality in order to implement the decommissioning plan.

O. Public Inquiries And Complaints:

1. The facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

2. The facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints. (Ord. 2006-15, 12-12-2006)

ARTICLE F. O-6 GIRL SCOUT RANCH, RECREATIONAL DISTRICT

SECTION:

9-12F-1: Purpose

9-12F-2: Permitted Uses

9-12F-3: Conditional Uses

9-12F-4: Landscaping

9-12F-5: Public Buildings

9-12F-1: PURPOSE:

The Girl Scout Ranch, Recreational District is primarily for outdoor recreational use, including support facilities and associated commercial structures. Nonpublic structures that are not subject to State or Federal regulation will be regulated by the Village. All buildings for public use will conform to O-1 District regulations and the Building and Zoning Codes. (Ord. 2019-08, 7-30-2019)

9-12F-2: PERMITTED USES:

Accessory uses and buildings generally associated with a recreation or outdoor activity.

Lodging.

On premises signs as defined in section9-12D-5 of this chapter.

Recreation or outdoor uses. Including summer recreation; hiking, mountain biking, zip lines, festivals and concerts and similar activities. (Ord. 2019-08, 7-30-2019)

9-12F-3: CONDITIONAL USES:

A. General Provisions: Any of the permitted uses listed in section9-12F-2 of this article shall be conditional if the use does create unusual traffic hazard or any significant noise, dust, vapor, fumes, odors, smoke, vibration, glare, or industrial waste disposal problems. If one of these conditions exists, a conditional use permit shall be required. (Ord. 2019-08, 7-30-2019)

9-12F-4: LANDSCAPING:

Retail areas within this zone shall be landscaped as regulated by section9-7-5 of this title. (Ord. 2019-08, 7-30-2019)

9-12F-5: PUBLIC BUILDINGS:

All public buildings and surrounding areas shall conform to the O-1 District requirements. (Ord. 2019-08, 7-30-2019)

CHAPTER 13

SPECIAL DEVELOPMENT AREAS

SECTION:

9-13-1: Purpose

9-13-2: Special Development Permit Required

9-13-3: Excessive Slope

9-13-4: High Water Table Areas

9-13-5: Ridge Line And View Shed Areas

9-13-1: PURPOSE:

A. Certain areas within the Village are deemed special development areas. All development within these areas shall conform to the general requirements of this title and the additional requirements set forth in this chapter. Examples of special development areas include steep slopes, areas of high water table, ridge lines, and specified view sheds.

B. Prior to annexation into the Village, many areas of the Angel Fire Resort were platted into narrow lots on steep slopes in excess of twenty percent (20%). These lots present development problems relative to access, drainage, erosion and construction in general. It is the purpose of this chapter to allow the development of those existing lots within a public safety and welfare context. (Ord. 2002-02, 1-17-2002)

9-13-2: SPECIAL DEVELOPMENT PERMIT REQUIRED:

Any project or portion of a project located in an area designated as a special development area requires a special development permit in addition to other applicable permits and approvals. A special development permit may be approved, denied, or approved with conditions as deemed appropriate. The Village may require additional construction documents to be prepared by a registered design professional. If the application for a special development permit applies to only one residential lot, the permit may be issued by the Coordinator. (Ord. 2018-03, 9-11-2018)

9-13-3: EXCESSIVE SLOPE:

A. Intent: The intent is to review any development on slopes greater than twenty percent (20%) to:

1. Ensure that such development is compatible with prevailing slopes;
2. Provide the least disturbance to the terrain and other natural land features of the area;
3. Determine availability of utilities and adequate access;
4. Reduce the impact of development on surface runoff and natural watershed; and
5. Enhance the natural mountain setting of the area.

B. Review Criteria:

1. In reviewing the development, the staff shall consider:
 - a. The suitability of the site for development considering the slope, ground stability, and the possibility of mud flow and rock slides.
 - b. The effects of the development on the natural watershed, runoff, drainage, soil erosion, and consequent effects on water pollution.
 - c. The design and location of any proposed structures, roads, driveways, or trails and their compatibility with the terrain.
 - d. The placement of structures so as to minimize road cutting and grading, as well as to increase open space and preserve the hillside as a scenic resource.
 - e. The design of driveways to prevent water runoff from entering the roadway.
 - f. The provision of parking to prevent or limit roadside parking when the slope of the driveway will exceed twelve percent (12%).
2. All site plans for lots, tracts, or parcels with any portion of the site plan containing twenty percent (20%) slope shall be drawn showing two foot (2') contours.
3. Any proposed subdivision lot(s) with a slope of twenty percent (20%) or greater shall be required to have a minimum front lot width of two hundred feet (200')
4. The applicant may be required to provide drainage and runoff studies conducted by a licensed (registered) engineer.
5. The criteria used shall be flexible in allowing innovative land uses to permit landowners, when and where suitable, the reasonable use of their land while preserving the environmental and aesthetic values that the area requires considering the welfare of the adjacent neighborhoods. (Ord. 2002-02, 1-17-2002)

9-13-4: HIGH WATER TABLE AREAS:

A. All structures and infrastructure, in order to be located in areas of high water table, shall protect the pristine streams and fragile vegetation of the area. An engineer's report may be required by the council to be prepared and submitted at the applicant's expense. Structures and fill shall be located in these areas to avoid any adverse change in adjacent property water resources.

B. The commission may require the applicant to provide drainage and runoff studies conducted by a licensed (registered) engineer. (Ord. 2002-02, 1-17-2002)

9-13-5: RIDGE LINE AND VIEW SHED AREAS:

Construction that considerably degrades the scenic quality of a pristine area by its location of high visibility shall not be permitted; degradation of scenic quality is to be reasonably prevented. (Ord. 2002-02, 1-17-2002)

CHAPTER 14

AIRPORT HEIGHT LIMITATION AREA

SECTION:

9-14-1: Purpose

9-14-2: Authority And Findings

9-14-3: Declarations

9-14-4: Definitions

9-14-5: Conflicting Regulations

9-14-6: Airport Zones

9-14-7: Airport Zone Height Limits

9-14-8: Use Restrictions

9-14-9: Nonconforming Uses

9-14-10: Permit Requirements; Exemptions; Variances

9-14-11: Administration And Enforcement Officials

9-14-12: Appeals

9-14-13: Judicial Review

9-14-14: Violation; Penalties

9-14-1: PURPOSE:

This chapter:

- A. Regulates and restricts the height of structures and objects of natural growth, and otherwise regulates the use of property in the vicinity of the Angel Fire airport by creating the appropriate zones and establishing the boundaries thereof;
- B. Provides for changes in the restrictions and boundaries of such zones;
- C. Defines certain terms used herein;
- D. Refers to the Angel Fire airport zoning map which is incorporated in and made a part of this zoning code;
- E. Provides for enforcement; and
- F. Imposes penalties. (Ord. 2002-02, 1-17-2002)

9-14-2: AUTHORITY AND FINDINGS:

These regulations and restrictions are adopted pursuant to the authority conferred by the laws of the state. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Angel Fire airport and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Angel Fire airport; and that an obstruction may reduce the size of areas available for the landing, take off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Angel Fire airport and the public investment therein. (Ord. 2002-02, 1-17-2002)

9-14-3: DECLARATIONS:

- A. The creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Angel Fire airport.
- B. It is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented.
- C. The prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- D. It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land. (Ord. 2002-02, 1-17-2002)

9-14-4: DEFINITIONS:

As used in this chapter, unless the context otherwise requires, the following words and terms shall have the meanings ascribed to them in this section:

AIRPORT: Angel Fire airport.

AIRPORT ELEVATION: Eight thousand three hundred eighty feet (8,380') above mean sea level.

APPROACH SURFACE: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this chapter. In plan view, the perimeter of the approach surface coincides with the perimeter of the approach zone.

APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES: These zones are set forth in this chapter.

CONICAL SURFACE: A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand feet (4,000').

HAZARD TO AIR NAVIGATION: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

HEIGHT: For determining the height limits in all zones set forth in this zoning code and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE: A horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which, in plan view, coincides with the perimeter of the horizontal zone.

NONCONFORMING USE: Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment hereto.

OBSTRUCTION: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this chapter.

PERSON: An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet (200') beyond each end of that runway; when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY: A defined area on an airport prepared for landing and take off of aircraft along its length.

STRUCTURE: An object, including a mobile object, constructed or installed by man including, but not limited to, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

TRANSITIONAL SURFACES: These surfaces extend outward at ninety degree (90°) angles to the runway centerline and the runway centerline extended at a slope of seven feet (7') horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

TREE: Any object of natural growth.

UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedures. (Ord. 2002-02, 1-17-2002)

9-14-5: CONFLICTING REGULATIONS:

Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. (Ord. 2002-02, 1-17-2002)

9-14-6: AIRPORT ZONES:

In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Angel Fire airport. Such zones are shown on the Angel Fire airport zoning map consisting of one sheet, prepared for the village, which is attached to ordinance 2002-02, made a part hereof by reference, and on file in the office of the village clerk for public use and inspection. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows: (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

A. Utility Runway Visual Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is two hundred fifty feet (250') wide. The approach zone expands outward uniformly to a width of one thousand two hundred fifty feet (1,250') at a horizontal distance of five thousand feet (5,000') from the primary surface. Its centerline is the continuation of the centerline of the runway.

B. Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.

C. Horizontal Zone: The horizontal zone is established by swinging arcs of five thousand feet (5,000') radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

D. Conical Zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of four thousand feet (4,000'). (Ord. 2002-02, 1-17-2002)

9-14-7: AIRPORT ZONE HEIGHT LIMITS:

A. Height Limits Established: Except as otherwise provided in this zoning code, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this zoning code to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone: Slopes twenty feet (20') outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand feet (5,000') along the extended runway centerline.

2. Transitional Zones: Slope seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty feet (150') above the airport elevation which is one hundred feet (100') above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

3. Horizontal Zone: Established at one hundred fifty feet (150') above the airport elevation or at a height of two hundred fifty feet (250') above mean sea level.

4. Conical Zone: Slopes twenty feet (20') outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty feet (150') above the airport elevation and extending to a height of three hundred fifty feet (350') above the airport elevation.

B. Exemptions From Height Limits: Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree to a height up to fifty feet (50') above the surface of the land. (Ord. 2002-02, 1-17-2002)

9-14-8: USE RESTRICTIONS:

Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this zoning code in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, take off, or maneuvering of aircraft intending to use the airport. (Ord. 2002-02, 1-17-2002)

9-14-9: NONCONFORMING USES:

A. Regulations Not Retroactive: The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof, or otherwise interfere with the continuance of a nonconforming use.

B. Structures Under Construction: Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date hereof, and is diligently prosecuted.

C. Marking And Lighting: Notwithstanding subsection B of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the council to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Angel Fire airport. (Ord. 2002-02, 1-17-2002)

9-14-10: PERMIT REQUIREMENTS; EXEMPTIONS; VARIANCES:

A. Future Uses:

1. Permit Required: Except as specifically provided in subsections A4a, A4b and A4c of this section, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted.

2. Application For Permit: Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed.

3. Issuance Of Permit; Restrictions: If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this zoning code shall be granted unless a variance has been approved in accordance with this section.

4. Exemptions From Permit:

a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy five feet (75') of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

b. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand

two hundred feet (4,200') from each end of the runway, no permit shall be required for any tree or structure less than seventy five feet (75') of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy five feet (75') of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

d. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this chapter.

B. Existing Uses: No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this zoning code or any amendments hereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

C. Nonconforming Uses Abandoned Or Destroyed: Whenever the code official determines that a nonconforming tree or structure has been abandoned or more than eighty percent (80%) torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

D. Variances:

1. Application For Variance: Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in this chapter, may apply to the council for a variance from such regulations. The application for variance shall be accompanied by a determination from the federal aviation administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

2. Standards For Granting Variance: Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this chapter.

3. Review Of Application; Grant Or Denial Of Variance: Additionally, no application for variance to the requirements of this chapter may be considered by the council unless a copy of the application has been furnished to the airport manager for advice as to the aeronautical effects of the variance. If the airport manager does not respond to the application within fifteen (15) days after receipt, the council may act on its own to grant or deny said application.

E. Obstruction Marking And Lighting: Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the council, this condition may be modified to require the owner to permit the Angel Fire airport, at its own expense, to install, operate, and maintain the necessary markings and lights. (Ord. 2002-02, 1-17-2002)

9-14-11: ADMINISTRATION AND ENFORCEMENT OFFICIALS:

A. Code Official: It shall be the duty of the code official to administer and enforce the regulations prescribed in this chapter. Applications for permits and variances shall be made to the village upon a form published for that purpose. Applications required by this chapter to be submitted to the village shall be promptly considered and granted or denied. The code official shall forthwith transmit application for action by the council.

B. Village Council:

1. The council shall have and exercise the following powers:

a. To hear and decide appeals from any order, requirement, decision, or determination made by the code official in the enforcement of this chapter.

b. To hear and decide special exceptions to the terms of this chapter upon which the council, under such regulations, may be required to pass and to hear and decide specific variances.

2. The concurring vote of a majority of the members of the council shall be sufficient to reverse any order, requirement, decision or determination of the code official or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect variation to this chapter. (Ord. 2002-02, 1-17-2002)

9-14-12: APPEALS:

A. Right Of Appeal: Any person aggrieved, or any taxpayer affected, by any decision of the code official made in the administration of this chapter may appeal to the council.

B. Time For Appeal; Notice To Village: All appeals hereunder must be taken within a reasonable time as provided by the rules of the council by filing with the village a notice of appeal specifying the grounds thereof. The code official shall forthwith transmit to the council all the papers constituting the record upon which the action appealed from was taken.

C. Stay Of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from unless the code official certifies to the council, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate, a stay would, in the opinion of the code official, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the council or notice to the village and on due cause shown.

D. Hearing: The council shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

E. Action By Village Council: The council may, in conformity with the provisions of this chapter, reverse or affirm in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances. (Ord. 2002-02, 1-17-2002)

9-14-13: JUDICIAL REVIEW:

Any person aggrieved, or any taxpayer affected, by any decision of the council may appeal to the court as provided in the laws of the state. (Ord. 2002-02, 1-17-2002)

9-14-14: VIOLATION; PENALTIES:

Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable as provided in section 1-4-1 of the village code, and each day a violation continues to exist shall constitute a separate offense. (Ord. 2002-02, 1-17-2002; amd. 2003 Code)

CHAPTER 15
PLANNED UNIT DEVELOPMENTS

SECTION:

9-15-1: PUDs Allowed; Effect Of Other Regulations

9-15-2: Desirability Of PUD

9-15-3: Conditions Of PUD

9-15-4: Principles To Be Considered

9-15-5: Approval Of PUD; Conditions

9-15-1: PUDS ALLOWED; EFFECT OF OTHER REGULATIONS:

Planned unit developments may be allowed by village approval in any zoning district. Compliance with this zoning code in no way limits or changes the applicable requirements of the subdivision ordinance as adopted and as may be amended ¹

Notes

¹ 1. See title 10 of this code.1, except as specifically authorized in any approval of the planned unit development. (Ord. 2002-02, 1-17-2002)

9-15-2: DESIRABILITY OF PUD:

The proposed use of the particular location shall contribute to the general well-being of the surrounding area, and will not be detrimental to the health, safety, or general welfare of persons residing in the vicinity of the planned unit development. (Ord. 2002-02, 1-17-2002)

9-15-3: CONDITIONS OF PUD:

- A. Area: A planned unit development shall be of a size adequate for the proposed development.
- B. Ownership: The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.
- C. Design: The commission shall require such arrangements of structures and open spaces within the site plan as necessary to ensure that adjacent properties will not be adversely affected.
- D. Density: Land use density shall in no case be more than twenty five percent (25%) higher than allowed in the zoning district.
- E. Applicable Regulations: Lot area, width, open space, height, density, and coverage regulations shall be determined through approval of the site development plan.
- F. Open Spaces: Preservation, maintenance, and ownership of required open spaces within the development shall be accomplished by either:

- 1. Dedication of land as a public park, greenbelt or trail system; or

2. Granting to the village a permanent, open space easement on and over the private open spaces to guarantee that the open space remains perpetually in recreational use, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws, approved by the village and filed in accordance with the law.

G. Landscaping:

1. Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the council with recommendation of the commission for approval, together with other required plans for the development.

2. A planting/maintenance plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed.

3. A grading and drainage plan shall also be submitted to the commission with the application.

H. Signs: The size, location, design and nature of signs, if any, and the intensity, direction and area of floodlighting shall be detailed in the application and be compatible with the zoning district. (Ord. 2002-02, 1-17-2002)

9-15-4: PRINCIPLES TO BE CONSIDERED:

In making its determination regarding the planned unit development, the council shall consider the following principles:

A. It is the intent of this chapter that site and building plans for a planned unit development be prepared by a designer, certified engineer or team of designers having professional planning competence. The council may require the applicant to engage professional expertise.

B. It is not the intent of this chapter that control of the design of a planned unit development by the council be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred, but rather, that the control exercised be the minimum necessary to achieve the purpose of this chapter.

C. The council may approve or disapprove an application for a planned unit development. In an approval, the council may attach such conditions as it deems necessary to secure compliance with the purposes set forth in this chapter. The denial of an application for a planned unit development may be appealed. (Ord. 2002-02, 1-17-2002)

9-15-5: APPROVAL OF PUD; CONDITIONS:

A. Conditions Of Approval: As part of its approval of a planned unit development, the council may require the applicant to meet the following conditions (among others it deems appropriate):

1. That the proponents of the planned unit development have demonstrated to the satisfaction of the council that they are financially able to carry out the proposed project.

2. That the proponents intend to start construction within one year of either the approval of the project or of any necessary zoning district change.

3. That the proponents intend to complete construction of the project, or approved stages thereof, within four (4) years from the date construction begins.

4. That the development is planned as one land use complex rather than as an aggregation of individual and unrelated buildings and uses.

B. Compliance With Approved Plans: Upon the council's approval of a planned unit development, construction shall proceed only in accordance with the approved plans and specifications, and in conformity with any conditions of approval.

C. Amendments To Approved Plans: Amendment to approved plans and specifications for a planned unit development shall be obtained only by following the procedures here outlined for first approval. (Ord. 2002-02, 1-17-2002)

CHAPTER 16

FLOOD DAMAGE PREVENTION

SECTION:

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9-16-1: STATUTORY AUTHORIZATION:

NMSA section 3-18-7 requires that a county or municipality with identified flood or mudslide hazard areas shall by ordinance:

- A. Designate and regulate floodplain areas having special flood or mudslide hazards;
- B. Prescribe standards for constructing, altering, installing or repairing buildings and other improvements under a permit system within a designated flood or mudslide hazard area;
- C. Require review by the local floodplain manager for development within a designated flood or mudslide hazard area provided final decisions are approved by the local governing body;
- D. Review subdivision proposals and other new developments within a designated flood or mudslide hazard area to ensure that:
 1. All such proposals are consistent with the need to minimize flood damage;
 2. All public utilities and facilities such as sewer, gas, electrical and water systems are designed to minimize or eliminate flood damage; and
 3. Adequate drainage is provided so as to reduce exposure to flood hazards;
- E. Require new or replacement water supply systems or sanitary sewage systems within a designated flood or mudslide hazard area to be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwater and require on site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding; and
- F. Designate and regulate floodways for the passage of floodwaters.

Therefore, the Angel Fire village council of the village of Angel Fire, New Mexico, does ordain the following. (Ord. 2010-15, 11-16-2010)

9-16-2: FINDINGS OF FACT:

- A. The flood hazard areas of the village of Angel Fire are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage. (Ord. 2010-15, 11-16-2010)

9-16-3: 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 expenditures 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. Ensure that potential buyers are notified that property is in a flood area. (Ord. 2010-15, 11-16-2010)

9-16-4: 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 that 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 floodwaters;

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

E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands. (Ord. 2010-15, 11-16-2010)

9-16-5: DEFINITIONS:

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

ALLUVIAL FAN FLOODING: When 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: When flooding occurring on the surface of 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.

AREA OF SHALLOW FLOODING: A designated AO or AH zone on community's flood insurance rate map (FIRM) with a one percent (1%) chance or greater annual chance of flooding to an average depth of one to three feet (3') 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 one percent (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 ratemaking has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AE, AH, AO or A1-99.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

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

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

ELEVATED BUILDING: A nonbasement building:

A. Built in the case of a building in zones A, AE, AH, AO, A1-99, B, C, X, and D, to have the top of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water; and

B. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. "Elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

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 FIRMs 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 INSURANCE RATE MAP (FIRM): An official map of a community, on which the federal emergency management

agency has delineated both the area of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: The official report provided by the federal emergency management agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of water, the unusual and rapid accumulation, or the runoff of surface waters from any source.

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 areas 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 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 regulations, subdivision regulations, building codes, health regulations, this chapter, and other applications of police power. The term describes such state and local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPLAIN OR FLOOD PRONE AREAS: Any land area susceptible to being inundated by water from any source (see definition of Flood Or Flooding).

FLOODPROOFING: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water or sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY): The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include 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.

HISTORICAL STRUCTURE: Any structure that is:

- A. Listed individually in the national register of historic places or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- B. 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;
- C. 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
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the secretary of the interior or directly by the secretary of interior in states without approved programs.

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

LEVEE SYSTEM: 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 of vehicles, building access or storage in the 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 nonelevation 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 "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) 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:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION: Includes substantial improvement and refers to the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (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 a 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 nor 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: A walled and roofed building, including a gas or liquid storage tank that is principally aboveground, 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 fifty percent (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 fifty percent (50%) of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- A. 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 conditions or
- B. 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 to a person from the requirement of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (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) 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 1929 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 2010-15, 11-16-2010)

9-16-6: LANDS TO WHICH THIS CHAPTER APPLIES:

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the village of Angel Fire, and other floodplain areas that are adopted by the Angel Fire village council. (Ord. 2010-15, 11-16-2010)

9-16-7: BASIS FOR ESTABLISHING THE LANDS TO WHICH THIS CHAPTER APPLIES:

A. The areas of special flood hazard identified by the federal emergency management agency in an engineering report entitled, "The Flood Insurance Study For The Village Of Angel Fire", dated November 4, 2010, with accompanying flood insurance rate maps and flood boundary-floodway maps (FIRM and FBFM) are hereby adopted by reference and declared to be a part of this code.

B. Other floodplain areas may be designated by the Angel Fire village council upon request by the floodplain administrator. These floodplain areas may be determined in one of two (2) ways. Floodplains may be delineated by accepted hydrologic and hydraulic practices or floodplains may be areas flooded by a historic flood.

C. Before floodplains other than special flood hazard areas designated by the Federal Emergency Management Agency may be adopted, they must be approved by the Federal Emergency Management Agency for floodplain management purposes.

D. If the base flood (100-year flood) has been determined for a stream reach, in no case shall a floodplain be adopted that has a flood elevation lower than the base flood elevation. (Ord. 2010-15, 11-16-2010)

9-16-8: ESTABLISHMENT OF A FLOODPLAIN USE PERMIT:

A floodplain use permit shall be required to ensure conformance with the provisions of this chapter. (Ord. 2010-15, 11-16-2010)

9-16-9: 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. 2010-15, 11-16-2010)

9-16-10: PENALTIES FOR NONCOMPLIANCE:

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 all provisions of this chapter 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 be subject to section 1-4-1 of this Code, and in addition shall pay all costs and expenses involved in the case. (Ord. 2010-15, 11-16-2010)

9-16-11: 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 other code sections, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2010-15, 11-16-2010)

9-16-12: WARNING AND DISCLAIMER OF 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 manmade 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 and any administrative decision lawfully made thereunder. (Ord. 2010-15, 11-16-2010)

9-16-13: DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR:

The Coordinator of Planning is hereby appointed the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (national flood insurance program regulations) pertaining to floodplain management. (Ord. 2018-03, 9-11-2018)

9-16-14: DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR:

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

- A. Maintaining and holding open for public inspection all records pertaining to the provisions of this chapter.
- B. Ensuring that all floodplain use permits are reviewed by a certified Floodplain Manager.
- C. Reviewing development permit applications to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- D. Reviewing and approving or denying all applications for floodplain use permits required by adoption of this chapter.
- E. Reviewing permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local government agencies (including section 404 of the Federal Water Pollution Control Act amendment from which prior approval is required).
- F. 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.
- G. Notifying, in riverine situations, adjacent communities and the New Mexico department of homeland security and emergency management prior to any alterations or relocation of a watercourse, and submit evidence of notification to the federal emergency management agency.
- H. Assuring that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- I. When base flood elevation data has not been provided in accordance with section 9-16-7 of this chapter, 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 section 9-16-18 of this chapter.

J. When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvement, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community.

K. Under the provisions of 44 CFR chapter 1, section 65.12, of the national flood insurance program regulations, a community may approve certain development in zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot (1'), provided that the community first applies for a conditional FIRM revision through FEMA (conditional letter of map revision). (Ord. 2010-15, 11-16-2010)

9-16-15: FLOODPLAIN USE PERMIT PROCEDURES:

Application for a floodplain use 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 locations of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- A. In zones A or AO or designated floodplains where no base flood elevation is provided:
 - 1. The elevation of the lowest floor of any building above the highest adjacent grade.
 - 2. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - 3. Maintain a record of all such information in accordance with subsection 9-16-14A of this chapter.
- B. In zones AE, AH, or A1-A30 or other designated floodplain where a base flood elevation is provided:
 - 1. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
 - 2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - 3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 9-16-18B2 of this chapter;
 - 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - 5. Maintain a record of all such information in accordance with subsection 9-16-14A of this chapter.
- C. Approval or denial of a 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 of 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;
 - 8. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - 9. The relationship of the proposed use to the comprehensive plan for that area. (Ord. 2010-15, 11-16-2010)

9-16-16: ELEVATION CERTIFICATES AND FLOODPROOFING CERTIFICATES:

A. The floodplain administrator shall require that the owner of a new or substantially improved building in a floodplain provide a FEMA elevation certificate or a FEMA floodproofing certificate for such building prior to issuance of a certificate of occupancy.

B. The floodplain administrator will review all FEMA elevation certificates and floodproofing certificates for completeness and correctness.

C. The floodplain administrator shall maintain a file of all FEMA elevation certificates and floodproofing certificates and make them available to the public upon request. (Ord. 2010-15, 11-16-2010)

9-16-17: VARIANCE PROCEDURES:

A. The Angel Fire village council shall hear and render judgment on requests for variances from the requirements of this chapter.

B. The Angel Fire village council 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 Angel Fire village council 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 one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 9-16-15C of this chapter have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.

G. Upon consideration of the factors noted above and the intent of this chapter, the village council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter, as set out in section 9-16-3 of this chapter.

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

I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

J. Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. Variances shall only be issued upon:

a. Showing a good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws.

3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

K. Variances may be issued by the village for new construction and substantial improvement and for other development necessary for the conduct of a functionally dependent use provided that:

1. The criteria outlined in subsection 9-16-15C of this chapter are met, and

2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ord. 2010-15, 11-16-2010)

9-16-18: PROVISIONS FOR FLOOD HAZARD REDUCTION:

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

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. Specific Standards:

1. In A zones and other designated floodplains where no base flood elevation is provided, the following provisions are

provided:

a. All new construction and substantial improvement of any structure, including manufactured housing, shall be built or placed on compacted fill that is at least two feet (2') above the highest adjacent grade prior to any disturbance of the building site. Such fill shall extend at least ten feet (10') from the walls of the structure before it drops below the two foot (2') elevation. All residential structures shall have positive drainage away from the structures. The finished floor of the structure shall be at least one foot (1') above the elevation of the fill.

b. New construction and substantial improvements, with 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 is subject to flooding shall not be enclosed.

2. In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 9-16-7 and subsection 9-16-14I of this chapter and subsection C3 of this section, the following provisions are required:

a. All New Construction: New construction and substantial improvement of any structure, including manufactured housing, shall be built or placed on compacted fill that is at least as high as the base flood elevation. Such fill shall extend at least ten feet (10') from the walls of the structure before it drops below the base flood elevation. All residential structures shall have positive drainage away from the structures.

b. Residential Construction: New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to at least one foot (1') above the basement elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in subsection 9-16-15B1 of this chapter is satisfied.

c. Nonresidential Construction: New construction and substantial improvements of any commercial, industrial or other nonresidential structure meet the requirements for residential construction.

d. Enclosures: New construction and substantial improvements, with 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 is subject to flooding shall not be enclosed.

C. Standards For Subdivision Proposals:

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 9-16-2, 9-16-3, and 9-16-4 of this chapter.

2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of sections 9-16-8 and 9-16-15 of this chapter and this section.

3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to section 9-16-7 or subsection 9-16-14I of this chapter.

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

5. 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 system located and constructed to minimize or eliminate flood damage.

D. Standards For Utilities:

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

2. All new water wells shall:

a. Either have the casing extend at least one foot (1') above the base flood elevation or be sealed so that floodwater cannot enter the casing.

b. Have all electrical controls and devices elevated at least one foot (1') above the base flood elevation or have such electrical controls and devices floodproofed to at least one foot (1') above the base flood elevation.

3. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Septic tank located within floodplains shall:

a. Be anchored to prevent flotation in the event that the ground is saturated from the bottom of the tank to ground level;

b. Be sealed so that water will not infiltrate the tank;

c. Be sealed so that the sewage will not escape the tank; and

d. Have one-way valves to prevent sewage from leaving the tank if the tank is inundated and the ground is saturated

from the bottom of the tank to ground level. (Ord. 2010-15, 11-16-2010)

TITLE 10

LAND SUBDIVISIONS

CHAPTER 1

GENERAL SUBDIVISION PROVISIONS

SECTION:

10-1-1: Title

10-1-2: Authority

10-1-3: Purpose

10-1-4: Jurisdiction

10-1-5: General Policy Requirements

10-1-6: Interpretation

10-1-7: Severability

10-1-1: TITLE:

This title shall be known and cited as the *VILLAGE OF ANGEL FIRE SUBDIVISION REGULATIONS* and shall be referred to elsewhere herein as "this title". The village council may be referred to elsewhere herein as the "council", and the planning and zoning commission may be referred to elsewhere herein as the "commission". (Ord. 2002-03, 2-2002)

10-1-2: AUTHORITY:

This title is adopted pursuant to the authority granted in New Mexico Statutes Annotated section 3-19-6 and the directives given in New Mexico Statutes Annotated sections 3-20-1 through 3-20-16. (Ord. 2002-03, 2-2002)

10-1-3: PURPOSE:

This title is adopted for the following purposes:

- A. To provide for and protect the public health, safety, and general welfare of the village;
- B. To guide the future growth and development of the village in accordance with all official plans adopted by the village;
- C. To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger;
- D. To protect and conserve the value of land throughout the village and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings; (Ord. 2002-03, 2-2002)
- E. To provide the most beneficial circulation of traffic; and to provide for the proper location and widths of streets and nonmotorized trails; (Ord. 2006-04, 1-19-2006)
- F. To establish reasonable standards of design and procedures for subdivisions and resubdivisions to further the orderly layout of and use of land;
- G. To prevent the pollution of air, streams, and ground water, to assure the adequacy of drainage facilities, and to safeguard the water table; and
- H. To provide for the reservation of open spaces for the protection of wildlife, scenic views, and natural features. (Ord. 2002-03, 2-2002)

10-1-4: JURISDICTION:

This title shall govern all subdivision of land within the boundaries of the village and the land within the extraterritorial planning and platting jurisdiction of the village. (Ord. 2002-03, 2-2002)

10-1-5: GENERAL POLICY REQUIREMENTS:

A. **Acceptance Of Public Lands:** Approval of a subdivision by the village council shall constitute intent by the village to accept the streets, alleys or other public ways or easements, and parks or other public lands dedicated on the subdivision plat by the developer. Acceptance for maintenance of such land dedications shall be by separate council action.

B. **Suitability Of Land For Subdivision:** The village council shall not approve a subdivision of land if, from adequate investigations, it has been determined that in the interest of the public health, safety or welfare, the land is not suitable for platting and development purposes of the kind proposed. Land subject to flooding and/or mudslides, land deemed to be topographically unsuitable, land occupied by noxious weeds, and land that is for other reasons uninhabitable, all as determined by the village council, shall not be platted for residential occupancy or for such other uses as it may increase

danger to health, safety or welfare, or aggravate existing erosion or flood hazard.

C. Grubbing, Thinning And Grading: No person shall proceed with any grubbing, thinning and grading specifically in relation to a proposed subdivision, before having an approved final plat. Such grading shall be consistent with the recommendations of a terrain management plan that is approved as part of the final plat.

D. Roads And Utilities:

1. All residential subdivisions developed within the village limits shall have gravel roads with bar ditches and provisions for separated pedestrian pathways.

2. All commercial subdivisions developed within the village limits shall have paved streets with curb, gutter, and sidewalks.

3. Easements or other access to all utilities shall be provided to the front of all lot lines.

4. All new subdivisions shall be required to connect with village water and wastewater systems.

E. Compliance With Provisions: No lot within a subdivision may be sold until the subdivider has complied with this title and the final plat has been properly recorded with the village clerk and the county clerk's office. (Ord. 2002-03, 2-2002)

10-1-6: INTERPRETATION:

These regulations are minimum requirements. Whenever any provision of this title conflicts with any other law, rule, regulation, covenant or ordinance, the more restrictive shall control. This title shall be construed liberally to promote the purpose for which it is adopted. (Ord. 2002-03, 2-2002)

10-1-7: SEVERABILITY:

The provisions of this title are severable. If any provision, sentence, clause, section, or part hereof is held to be illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this title or their application to other persons or circumstances. It is hereby declared to be the intent of the village that this title would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section or part had not been included, and if the person or circumstances to which this title or any part hereof are inapplicable had been specifically exempted from application of this title. (Ord. 2002-03, 2-2002)

CHAPTER 2

DEFINITIONS

SECTION:

10-2-1: Definitions

10-2-1: DEFINITIONS:

AASHTO: American Association of State Highway and Transportation Officials.

ALLEY: A minor public way, having a right of way width sufficient for vehicular service access to the back or side of properties otherwise abutting on a street.

COMMISSION: The planning and zoning commission of the village of Angel Fire, New Mexico.

CONTIGUOUS: Refers to adjacent lots sharing a boundary line or separated only by a road, right of way or easement.

COUNCIL: The four (4) at large elected representatives of the village who, along with the mayor, make up the governing body of the village of Angel Fire, New Mexico.

COVENANTS: An agreement between or among private property owners within a common subdivision or area typically outlining architectural guidelines and property maintenance provisions.

CUL-DE-SAC: A local street with only one outlet and having a terminus with a radius of fifty feet (50') for the safe and convenient reversal of traffic movement.

DEVELOPER: The property owner(s) who is engaged in the process of subdividing their property for development purposes. This term is interchangeable with "subdivider".

DISCLOSURE STATEMENT: A statement given to a person acquiring an interest in subdivided land regarding the conditions of the land, including any encumbrances on the land.

DRIVEWAY: A private access road used by persons residing, employed, or otherwise using or visiting the parcel on which said driveway is located.

EASEMENT: An acquired or granted right from a property owner for a specific use by the general public, a corporation, or certain person(s).

ENCROACHMENT PERMIT: A permit issued to a private party, corporation, or utility company for the purpose of excavating

a trench or pit, or boring under or within a village right of way for the installation of utility lines, conduits, or drainage structures

LOT: A unit of land capable of being described by location and boundaries and not dedicated for public or common use; intended as a unit for transfer of ownership, for development, or both.

LOT DEPTH: The depth of a lot is the dimension measured from the front of the lot to the extreme rear line of the lot. The depth will be averaged if the lot is trapezoidal in shape.

LOT WIDTH: Dimension between side property lines measured parallel to the street right of way line. The width will be averaged if the lot is trapezoidal in shape.

MANUFACTURED HOME: As defined by New Mexico Statutes Annotated section 3-21A-2, is a home that is a single-family dwelling with a heated area of at least thirty six by twenty four feet (36 x 24') and at least eight hundred sixty four (864) square feet constructed in a factory to the standards of the United States department of housing and urban development, the national manufactured housing construction and safety standards act of 1974 and the housing and urban development zone code II or the building code, as amended to the date of the unit's construction, and installed consistent with the manufactured housing act, New Mexico Statutes Annotated chapter 60, article 14.

MOBILE HOME: As defined by New Mexico Statutes Annotated section 3-21A-3, is a movable or portable housing structure larger than forty feet (40') in body length, eight feet (8') in width or eleven feet (11') in overall height, designed for and occupied by no more than one family for living and sleeping purposes but does not include structures built to the standards of any municipal building code and other technical codes.

MOBILE HOME SUBDIVISION: A subdivision designed specifically for mobile homes.

NMDOT: New Mexico department of transportation.

NMED: The New Mexico environment department.

OWNER: A person or successor in interest having a legal or equitable interest in a given property.

PERSON: Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity.

PLAT: A map, chart, survey, plan or replat certified by a licensed land surveyor containing a description of the subdivided land with ties to permanent monuments.

PLAT, FINAL: A map, survey, plat, or replat certified by a New Mexico registered land surveyor which contains a description of the subdivided land with ties to permanent monuments prepared in a form suitable for recording at the Colfax County clerk's office.

PLAT, PRELIMINARY: A map of a proposed subdivision showing the character and proposed layout of the subdivision and the existing conditions in and around it.

PUBLIC HEARING: Any hearing open to the public or any hearing or such thereof as to which testimony or other evidence is made available or disseminated to the public.

RECREATIONAL TRAIL EASEMENT: An easement designated for the purpose of developing a nonmotorized trail. A recreational trail easement can be overlaid over a utility easement.

REPLAT: The act of reconfiguring a subdivision or portion of a subdivision by abandoning and removing existing lot lines, rights of way, easements of a previously platted subdivision and replacing them with new lot lines, rights of way, and easements as part of a new subdivision.

RIGHT OF WAY: Land area, property or interest therein, usually a strip, for or devoted to transportation, drainage and/or utility purposes which are dedicated to or acquired by the village, county, state, or federal government for public use.

SITE PLAN: A map or drawing showing the general features or concept of a development including property boundaries of the tract proposed for development; location and arrangement, size, use and design of all structures; existing and proposed utility rights of way and easements; vehicular and pedestrian ways; on site parking areas; open spaces; landscaped areas; size and design of exterior signs.

SPECIAL DEVELOPMENT AREAS: Those areas of the village identified on the special development areas map as having particular topographical and/or hydrological features or conditions, including steep slopes, high water table and wetlands, ridgelines, and specified viewsheds.

STREET: A public way for vehicular and pedestrian traffic whether designated as a street, drive, highway, road, avenue, boulevard, lane, place, way, or however otherwise designated.

STREET, ARTERIAL: A street designed to carry large volumes of traffic and provide for efficient vehicular movement between large areas of the village or through the village as designated on the village street and thoroughfare map.

STREET, COLLECTOR: A street designed to carry moderate volumes of traffic and provides for efficient vehicular movement between local streets and arterial streets or from arterial to arterial streets as designated on the village street and thoroughfare map.

STREET, LOCAL: A street of limited continuity designed to carry low volumes of traffic used primarily for access to abutting properties and the local needs of a neighborhood as designated on the village street and thoroughfare map.

SUBDIVISION: As defined by the New Mexico Statutes Annotated section 3-20-1, means:

- A. For the area of land within the corporate boundaries of the village, the division of land into two (2) or more parts by platting or by metes and bounds description into tracts for the purposes set forth in subsection C of this definition; and
- B. For the area of land within the village's extraterritorial subdivision and platting jurisdiction, the division of land into two (2) or more parts by platting or by metes and bounds description into tracts of less than five (5) acres in any one calendar year for the purposes set forth in subsection C of this definition.

C. The division of land pursuant to subsections A and B of this definition shall be for the purpose of:

- 1. Sale for building purposes;
- 2. Laying out the village or any part thereof;
- 3. Adding to the village;
- 4. Laying out suburban lots; or
- 5. Resubdivision.

SUBDIVISION BOND: A security bond, letter of credit, or some other instrument of financial guarantee of infrastructure improvements.

SUBDIVISION IMPROVEMENT AGREEMENT: A contractual agreement between the subdivider and the village that allows the subdivision plat to be filed with the county clerk prior to completing required infrastructure improvements. This agreement is to be secured by a subdivision bond.

SUMMARY SUBDIVISION: An administrative subdivision process that creates a maximum of two (2) lots, parcels, or tracts.

TERRAIN MANAGEMENT: The control of floods, drainage, and erosion, and all measures necessary to adapt proposed development to existing soil characteristics and topography.

TERRAIN MANAGEMENT PLAN: A land management plan that includes, and is based upon a geotechnical report, a drainage report and an archeological survey of the land proposed to be subdivided.

TRAFFIC IMPACT ANALYSIS: A study designed to analyze the amount of traffic on existing or proposed roads and streets which will be generated by a proposed development or subdivision.

TRAIL: A strip of developed or undeveloped land for the use of transportation or recreation by nonmotorized modes of travel. A trail can be built on a right of way or on a recreation trail easement.

VACATION: The act of rescinding (canceling) all or part of legal dedications and grants of easement.

VILLAGE ENGINEER: The individual designated to represent the village in the review of subdivision and other construction projects and drawings.

WATERCOURSE: Any perennial, intermittent or ephemeral surface water conveyance channel including, but not limited to, a river, creek, arroyo, draw, canal or wash, or any other channel having definite banks and beds with visible evidence of the flow of water.

WETLANDS: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico; constructed wetlands are not included in this definition. (Ord. 2002-03, 2-2002; amd. Ord. 2003-11, 11-20-2003; Ord. 2004-10, 11-4-2004; Ord. 2006-04, 1-19-2006; Ord. 2006-11, 10-19-2006; Ord. 2013-07, 8-13-2013)

Notes

- ¹ 1. See title 7, chapter 2 of this code.1.

CHAPTER 3

SUBDIVISION PLATS AND PROCEDURES

ARTICLE A. PREAPPLICATION PROCEDURE

SECTION:

10-3A-1: Preapplication Process

10-3A-2: Data Requirements

10-3A-1: PREAPPLICATION PROCESS:

A. Optional Preapplication Conference: For the purpose of expediting applications and reducing subdivision design and development costs, a developer is encouraged to request an informal preapplication conference with the planning staff in accordance with the requirements provided herein. The preapplication conference is intended to provide general guidance to the subdivider about the procedures and data requirements for subdivision review and approval in the village.

B. Application Information: At the request of the developer, the village shall provide information and forms for preliminary plat submittal to comply with the village subdivision process and the New Mexico subdivision act ¹

Notes

¹ 1. NMSA § 47-5-1 et seq.1. (Ord. 2002-03, 2-2002)

10-3A-2: DATA REQUIREMENTS:

A. Sketch Plan: A sketch plan and a location map showing general configuration of streets and lot layout relative to the topography of the site should be provided to staff for the preapplication conference.

B. Additional Information: In addition to the sketch plan, the developer should include the following:

1. The name and mailing address of the developer and designated agent, if any;
2. The name(s) of owner(s) of land to be subdivided;
3. A survey plat of the land proposed for subdivision;
4. A description of surrounding land uses; and
5. The accessibility of site to roads and utilities.
6. Any special conditions. (Ord. 2002-03, 2-2002)

ARTICLE B. PRELIMINARY PLAT

SECTION:

10-3B-1: Submittal Of Preliminary Plat

10-3B-2: Fees

10-3B-3: Data Requirements

10-3B-4: Review Of Preliminary Plat

10-3B-5: Commission Recommendation

10-3B-6: Public Hearing

10-3B-7: Expiration Of Plat

10-3B-1: SUBMITTAL OF PRELIMINARY PLAT:

Preliminary plats shall be submitted for all subdivisions. A developer shall prepare a preliminary plat and supporting documentation in accordance with the requirements provided in this article. Preliminary plat submittal is initiated by completing an application on a prescribed application form obtained from the village planning office, submitting said form along with all required drawings and reports to the village planning office, and paying the required administrative fee. (Ord. 2002-03, 2-2002)

10-3B-2: FEES:

In addition to the administration subdivision fees to cover general expenses related to processing subdivision documents, an engineering fee for subdivision review, based on estimated construction costs is assessed. Estimated construction costs shall be determined and approved by the Village Council based on the developer's submitted engineering estimated costs. The engineering review fee shall be paid by the developer to the village as follows:

A. Two percent (2%) of estimated construction cost with the submission of the preliminary plat and preliminary improvement plans.

B. In lieu of payment of two percent (2%) of estimated construction cost with the submission of the preliminary plat and preliminary improvement plans the Village Mayor and Council may approve a process whereby developers would deposit cash with the village for its use in paying village costs of:

1. Any contracted professional services involved in developing and placing in front of the governing body new or

amended ordinances or regulations necessary to accommodate the unusual scale or complexity of proposed development;

2. Any contracted cost/benefit analysis deemed necessary by the Village Mayor and Council to project added costs of other governmental services such as police, fire, refuse, public education and medical services to serve new large-scale development;

3. Any contracted planning, consulting, engineering, legal or professional fees incurred for cost-benefit analysis;

4. Any reimbursement to cover all its costs including in-house costs and overhead as well as village third-party contractor costs and expenses to review infrastructure and facilities improvement plans that will be constructed within the boundaries of the property, including, but not limited to plats and improvement plans ("Subdivision Plans") for roads, bridges, tunnels, water, wastewater, and drainage and other improvements, which improvements will be dedicated to the Village upon completion and inspection and which once completed, the Village will thereafter own, operate and maintain (the "Improvements").

C. Additional review and inspections may require additional direct cost basis fees. (Ord. 2002-03, 2-2002; amd. Ord. 2021-05, 6-8-2021)

10-3B-3: DATA REQUIREMENTS:

A. Purpose: At a minimum, the preliminary plat review is intended to provide sufficient information for the village to determine that there are: 1) satisfactory roads to each lot including entry and exit for emergency vehicles; 2) that there are appropriate utility easements to each parcel; 3) terrain management protection against flooding, inadequate drainage and erosion; and 4) existing village maintained roads and utilities available to service the proposed subdivision infrastructure.

B. Minimum Documentation: Supporting documentation, at a minimum, shall include:

1. Water distribution system plan(s) and profile(s).
2. Liquid waste collection system plan(s) and profile(s).
3. Accessibility of site to streets and utilities.
4. Street plan(s) and profile(s), street(s) cross section and composition.
5. Terrain management plan, to include:
 - a. Storm drainage analysis and plan for the 100-year frequency storm;
 - b. Identification of areas of special flood hazard;
 - c. Wetlands and areas having high water tables;
 - d. Grading plan using two foot (2') contours showing all proposed changes to ground elevations;
 - e. Proposed finished grade of each lot (if applicable); and
 - f. Soils analysis.

6. All plans, profiles, reports and other engineering elements shall be stamped with the seal of and signed by a civil engineer registered in the state of New Mexico.

C. Map Specifications: The preliminary plat map shall include the following information:

1. Name of subdivision, scale, north arrow, and date.
2. Permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referenced.
3. Tract boundary lines, easements, right of way lines, property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, radii, arcs, and central angles of all curves.
4. Reference of the plat to the New Mexico state plane coordinate system.
5. Accurate description of legal access to roads and utility easements for each lot; and if the access or easement is based upon an agreement, the recording data in the land records for the agreement.
6. Name, right of way width, and centerline data of each road or other right of way.
7. Location, dimensions, and purpose of all easements, individual utility hookup points, and dedicated public sites.
8. Number of each lot and block in progression, with its dimensions and lot area.
9. Street address on each lot, as assigned by the village.
10. Reference to recorded subdivision plats of adjoining platted land by recorded name, date, book and page number in the office of the county clerk.
11. Name of the owner(s) of the subdivision, and the name of the developer if other than the owner.
12. Certification and seal by a surveyor, in accordance with the laws of the state of New Mexico, certifying the accuracy

of the survey and plat, that he prepared or supervised preparation of the plat, and that he has shown all easements of record.

13. Legal description indicating the range, township, and section within which the subdivision is located.

14. Signature blocks for all available wire utilities and services.

15. Recordation signature blocks as prescribed by the county clerk.

16. 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 the acknowledgment of deeds.

D. Submittal Specifications: The developer shall submit ten (10) copies of the preliminary plat and supporting documentation for local review and distribution to reviewing entities. Preliminary plat maps shall be prepared at a scale of one inch to two hundred feet (1" = 200') or larger, and printed on sheets no larger than twenty eight inches by thirty six inches (28" x 36"). Sheets shall be numbered in sequence if more than one sheet is used.

E. Phased Subdivisions: Subdivisions which are proposed to be phased and filed in multiple final plats shall include an anticipated phasing schedule for the final plats and a schedule of improvements. (Ord. 2002-03, 2-2002)

F. Storm Drainage Management: For the purpose of minimizing or eliminating damage resulting from stormwater runoff and as part of the terrain management plan, the subdivider shall be required to furnish a preliminary plan and report for storm drainage management. The drainage plan shall include a site map showing existing topography indicating contour intervals sufficient for planning purposes. If applicable, the 100-year floodplain as designated by the federal emergency management agency (FEMA) must be identified. Preparation of the terrain management plan shall be done by an engineer and shall conform to title 7 of this code. (Ord. 2002-03, 2-2002; amd. Ord. 2013-07, 8-13-2013)

G. Soils Analysis: The developer shall also provide a soils analysis by a geotechnical engineer to determine the adequacy of the soil for the proposed construction as part of the terrain management plan. Subdivisions reviewed by the summary procedure of this title (see article D of this chapter) may be exempt from this section unless the commission determines the analysis to be in the public interest.

H. Special Development Areas: For lands within special development areas, a report identifying any proposed solution to any geotechnical or drainage problems shall be prepared that is acceptable to the Planning and Zoning Commission.

I. Historical Or Archeological Sites: As part of the terrain management plan, the developer shall disclose and identify any known or suspected historical or archeological sites within the proposed subdivision. These areas shall be shown as nondevelopable open space.

J. Protected Species Habitats: Any areas of the proposed subdivision that lay within a habitat for a protected species as identified by the New Mexico Forestry Division shall be identified and described in a written report submitted with the application. These areas shall be shown on the plat as nondevelopable open space. (Ord. 2002-03, 2-2002)

K. Transportation Plans: Any portion of a subdivision that lies in the path of a proposed street or trail alignment as shown on the future streets and thoroughfare map or the future trails map shall provide the layout and design of that street(s) and trail(s). Trails can be located on rights-of-way or on recreational trail easements. (Ord. 2006-04, 1-19-2006)

10-3B-4: REVIEW OF PRELIMINARY PLAT:

A. Plat Transmittals: Within five (5) business days after the date of submittal of the preliminary plat, the Village shall forward a copy of the preliminary plat and supporting documentation to the Village Engineer and to any other agencies the Village considers necessary to determine whether there are adequate infrastructure and facilities to accommodate the proposed subdivision, with a request for review and opinions.

B. Review And Opinion Response: The Village Engineer and other reviewing entities shall have thirty (30) days to review and return an opinion regarding the preliminary plat to the Village.

C. Favorable Opinions; Session Deadline: If the opinions received from all reviewers are favorable, the Village shall schedule a public session before the commission for consideration of the preliminary plat within thirty (30) days following receipt of all such favorable opinions.

D. Unfavorable Opinions; Session Deadline: If any opinion from any reviewer is adverse, the Village shall forward a copy of the adverse opinion to the developer and request that additional information be provided to the Village within thirty (30) days to respond to the concerns of the reviewer(s). The Village shall forward such additional information upon receipt to the appropriate reviewing entity which shall have fifteen (15) days after the date the developer submits the additional information to reconsider and return its opinion.

E. Reconsidered Opinions; Session Deadline: The Village shall schedule a public session before the commission for consideration within thirty (30) days following receipt of such reconsidered opinions or the expiration of the deadline for the return of such opinions.

F. Record Of Opinions: All opinions from the Village Engineer and reviewing agencies shall be part of the documentary record made before the commission and considered by it in making its recommendation to the Council.

G. Agency Review For Subdivisions Within The Extraterritorial Planning And Platting Jurisdiction:

1. Plat Transmittals: The Planning Coordinator or Village Administrator shall forward a copy or copies of the preliminary

plat and supporting documentation to the following State and local agencies by certified mail, return receipt requested, with a request for review and opinions, as follows:

One copy New Mexico State Engineer Office;

One copy New Mexico Environment Department;

Four (4) copies New Mexico Highway and Transportation Department;

One copy soil and water conservation district in which the proposed subdivision is located; and any other public agencies the Planning Coordinator or Village Administrator considers necessary to determine whether there are adequate facilities to accommodate the proposed subdivision (e.g., fire district, school district, special purpose district or authority, Office of Cultural Affairs, solid waste authorities, water districts and acequia associations, irrigation districts, conservancy districts). These agencies will be disclosed to the subdivider at the preapplication conference.

2. Agency Response: The State and local agencies shall have thirty (30) days from their receipt of the preliminary plat to review and return an opinion regarding the preliminary plat. The Planning Coordinator or Village Administrator shall obtain receipts, or other proof, showing the date the opinion request was received by each State or local agency.

3. Hearing Deadlines: If the opinions received from all agencies are favorable, the Planning Coordinator or Village Administrator shall schedule a public hearing for consideration and action on the preliminary plat within thirty (30) days following the receipt of such favorable opinions. If the Planning Coordinator or Village Administrator does not receive a requested opinion within the specified thirty (30) days, it shall proceed with the public hearing.

4. Adverse Opinion: If any opinion from a public agency is adverse, the opinion shall detail each and every deficiency noted and provide for remedying the deficiency if available. The Planning Coordinator or Village Administrator shall forward a copy of the adverse opinion to the subdivider and request that additional information be provided to the Village within thirty (30) days to respond to the concerns of the appropriate agency. The Planning Coordinator or Village Administrator shall obtain receipts, or other proof, showing the date additional information was received by each State or local agency.

5. Revised Opinion: The Planning Coordinator or Village Administrator shall schedule a public hearing for consideration and action within thirty (30) days after the receipt of a revised opinion from the appropriate agency. If the Planning Coordinator or Village Administrator does not receive a revised opinion within the specified thirty (30) days after the date the subdivider submits the additional information, it shall proceed with the required public hearing.

6. Exemption: A subdivision, classified as a summary subdivision in section 10-3D-2 of this chapter is exempt from this subsection G. (Ord. 2018-03, 9-11-2018)

10-3B-5: COMMISSION RECOMMENDATION:

A. Public Session; Documentary Record: A public session before the commission shall be scheduled as a part of a regularly scheduled meeting of the commission. All documents submitted to the Village on the preliminary plat shall be included in the record before the commission which record shall be comprised of documentary evidence and opinions.

B. Notice Of Public Session: The notice of the public session shall be posted at least ten (10) days prior to the session and shall be published in a newspaper of general circulation in the Village within fifteen (15) days prior to the session and shall contain the following information:

1. Preliminary plat or plats to be considered.
2. Date, time, and place of the meeting.

3. Place where and method by which interested persons may acquire copies of comments and related documents on the preliminary plat or plats to be considered at the session.

C. Recommendation: Based solely on the documentary record, including written statements submitted from the public, if any, and/or the developer and his representatives, the commission shall recommend to the Village Council approval, approval with conditions or disapproval of the preliminary plat. If a decision cannot be made at the public session, the commission may defer their recommendation to a later date specified at the conclusion of the public session. The written recommendation decision of the commission shall be mailed to the developer and delivered to the Village within five (5) days after being made, and in no event, more than five (5) business days after the public session. (Ord. 2002-03, 2-2002)

10-3B-6: PUBLIC HEARING:

A. Time For Hearing: Within thirty (30) days after the recommendation decision of the commission is received by the Council, a public hearing before the Council shall be held on the recommendation decision of the commission on the preliminary plat.

B. Notice Of Hearing: Notice of the public hearing shall be sent to the developer in writing, posted as required by law and published in a newspaper of general circulation in the village no later than fifteen (15) days prior to the public hearing.

C. Schedule: The public hearing before the council may occur as a part of the regularly scheduled council public meeting or be separately scheduled.

D. Record: The record of the public hearing before the council shall include the written documentary record upon which the commission's recommendation decision was made; any public comments made at the public hearing; the testimony of witnesses appearing on behalf of the developer and the village; all exhibits offered and introduced into evidence before the

council; and all comments, questions, discussions and statements made by the council and its members or village representatives at the public hearing. The intent is that the record of the public hearing shall include a record of the complete proceedings before the village council and the commission.

E. Witnesses And Exhibits: Witnesses may be called, examined, cross examined and heard on behalf of the developer and the village at the public hearing. Additional exhibits may be offered and, if relevant and admissible, included in the record of the public hearing.

F. Hearing Continuation: The council may continue any public hearing, properly noticed and open, for good cause shown, specifying the date for such continued hearing at the time of the continuation decision. (Ord. 2002-03, 2-2002)

G. Decision: The council shall make its decision on the recommendation of the commission on the preliminary plat at the conclusion of the public hearing, if possible, but in no event, later than ten (10) business days after the public hearing. The council decision shall be in writing and sent by mail to the developer. The date of the written decision shall be the date from which any deadline for appeal by the developer is determined. (Ord. 2002-03, 2-2002; amd. 2003 Code)

H. Procedure: The rules of civil procedure applicable to the district courts in the state may be followed by the council in any public hearing to the extent practicable and applicable to the matter of the preliminary plat and associated issues. (Ord. 2002-03, 2-2002)

10-3B-7: EXPIRATION OF PLAT:

A. Approved And Conditionally Approved Plats: An approved or conditionally approved preliminary plat shall expire twelve (12) months after its approval or conditional approval if the developer has not submitted an application for final plat approval. Upon request by the developer, an additional period of up to twelve (12) months may be added to the expiration date of the preliminary plat. (Ord. 2002-03, 2-2002)

B. Phased Development: If the preliminary plat was approved for phased development, the developer may file final plats for phases of the development, and the expiration date of the preliminary plat shall be extended for an additional thirty six (36) months after the date of the filing of each final plat except for the final phase, extension shall be for twelve (12) months. The number of phased final plats shall be determined by the developer and subject to village council approval. (Ord. 2002-03, 2-2002; amd. 2003 Code)

C. Effect Of Expiration: The expiration of the approved or conditionally approved preliminary plat shall terminate all proceedings on the subdivision, and a final plat shall be filed based on the expired preliminary plat. (Ord. 2002-03, 2-2002)

ARTICLE C. FINAL PLAT

SECTION:

10-3C-1: Submittal Of Final Plat

10-3C-2: Data Requirements

10-3C-3: Review Of Final Plat

10-3C-4: Decision

10-3C-5: Water Rights

10-3C-1: SUBMITTAL OF FINAL PLAT:

A. Filing Final Plat; Conformance With Preliminary Plat: Following approval or conditional approval of a preliminary plat, and before the expiration of the plat, the developer shall prepare a final plat in substantial conformity with the approved or conditionally approved preliminary plat. Subdivisions proposed to be phased in multiple final plats shall be submitted as indicated on the phasing schedule submitted with the preliminary plat.

B. Application: A developer shall prepare a final plat and supporting documentation in accordance with the requirements provided in this title. Final plat submittal is initiated by completing an application on a prescribed form available from the village planning office and upon payment of the required administrative fees. (Ord. 2002-03, 2-2002)

10-3C-2: DATA REQUIREMENTS:

A. Submittal Specifications: The subdivider shall submit ten (10) copies of the final plat and supporting documentation for local review and distribution to reviewing entities. Final plat maps shall be prepared at a scale of one inch to two hundred feet (1"=200') or larger, and printed on sheets no larger than twenty eight inches by thirty six inches (28"x36"). Sheets shall be numbered in sequence if more than one sheet is used.

B. Map Specifications: The final plat map shall include the following information:

1. Name of subdivision, scale, north arrow, and date;
2. Permanent monuments, or descriptions and ties to such monuments, to which all dimensions, angles, bearings, and similar data on the plat shall be referenced.
3. Tract boundary lines, easements, right of way lines, property lines of residential lots and other sites with accurate dimensions, bearings or deflection angles, radii, arcs, and central angles of all curves;

4. Reference the plat to the New Mexico state plane coordinate system;
5. Accurate description of legal access to roads and utility easements for each lot; and if the access or easement is based upon an agreement, the recording data in the land records for the agreement;
6. Name, right of way width, and centerline data of each road or other right of way;
7. Location, dimensions, and purpose of all easements, individual utility hookup points, and dedicated public sites;
8. Number of each lot and block in progression, with its dimensions and lot area;
9. Street address on each lot, as assigned by the village; and
10. Reference to recorded subdivision plats of adjoining platted land by recorded name, date, book and page number in the office of the county clerk.
11. Name of the owner(s) of the subdivision, and the name of the developer if other than the owner.
12. Certification and seal by a surveyor, in accordance with the laws of the state of New Mexico, certifying the accuracy of the survey and plat, that he prepared or supervised preparation of the plat, and that he has shown all easements of record.
13. Legal description indicating the range, township, and section within which the subdivision is located.
14. Signature blocks for all available utilities and services.
15. Recordation signature blocks as prescribed by the county clerk.
16. 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 the acknowledgment of deeds.
17. Location of historical and archeological sites.
18. Location of endangered species habitats.

C. Dedication: The final plat shall contain a certification statement that the village council has accepted, on behalf of the public, any land offered for dedication for public use in conformity with the terms of the offer of dedication. On full conformity with village water, sewer, and road construction standards, the village will accept the water lines, sewer lines, and roads for maintenance. Acceptance of offers of dedication on the final plat shall not be effective until the final plat is filed in the office of the county clerk along with a resolution of acceptance by the planning and zoning commission. (Ord. 2002-03, 2-2002)

D. Supplemental Documents: See subsections 10-3B-3B, D, E, F, G, H, I, J and K of this chapter. (Ord. 2006-04, 1-19-2006)

10-3C-3: REVIEW OF FINAL PLAT:

A. Necessity Of Final Review Process: If the preliminary plat of the subject subdivision was approved with conditions, then the developer will initiate a final plat review process.

B. Plat Transmittals: Within five (5) business days after the date of submittal of the final plat, the village shall forward a copy of the final plat and supporting documentation to the village engineer and to any other agencies the village considers necessary to determine whether the preliminary plat conditions have been met, with a request for review and opinions.

C. Review And Opinion Response: The village engineer and other reviewing entities shall have thirty (30) days to review and return an opinion regarding the final plat to the village.

D. Favorable Opinions; Hearing Deadlines: If the opinions received from reviewers are favorable, the village shall schedule a public hearing before the village council for consideration and action on the final plat within thirty (30) days following receipt of all such favorable opinions.

E. Unfavorable Opinions; Additional Information: If any opinion from any reviewer is adverse, the village shall forward a copy of the adverse opinion to the developer and request that additional information be provided to the village within thirty (30) days to respond to the concerns of the reviewer(s). The village shall forward such additional information upon receipt to the appropriate reviewing entity which shall have fifteen (15) days after the date the developer submits the additional information to reconsider and return its opinion.

F. Reconsidered Opinions; Public Session; The village shall then schedule a public session before the commission for consideration within the thirty (30) days following the receipt of such reconsidered opinion or the expiration of the deadline for return of such opinions.

G. Record Of Opinions: All opinions from the village engineer and reviewing agencies shall be part of the documentary record made before the commission and considered by it in making its recommendation to the council. (Ord. 2002-03, 2-2002)

10-3C-4: DECISION:

A. Time For And Types Of Action: Final plats submitted to the village for approval shall be recommended for approval, tabled or disapproved by the planning and zoning commission at a public session within thirty (30) days after review comments and recommendations have been received by the commission from all the reviewing entities. The

recommendation decision of the commission shall be forwarded to the village council for a public hearing.

B. Public Hearing, Notice And Procedure: The provisions of section 10-3B-6 of this chapter shall apply to and govern the scheduling, notice and procedure of the village council's decision on a final plat.

C. Denial: Denial of a final plat shall be accompanied by findings of fact by the council identifying the basis for the denial. (Ord. 2002-03, 2-2002)

D. Subdivision Improvement Agreement: After the approval of the final plat, but before any lots can be sold, the final subdivision plat must be filed with the county clerk. Before the final plat can be filed, the developer must either build all of the required improvements or must enter into a subdivision improvement agreement with the village and post a financial guarantee with the village in the amount of one hundred ten percent (110%) of the total cost of improvements. A subdivision improvement agreement allows the sale of lots prior to the completion of improvements. No building permits shall be issued until the village has accepted all of the required improvements for maintenance. Cost estimates are to be submitted in the form of a bid estimate secured by the developer from the appropriate type(s) of contractor(s) licensed by the New Mexico construction industries division. This subdivision improvement agreement shall constitute a binding contract between the developer and the village. (Ord. 2006-04, 1-19-2006)

E. Financial Guarantee: A financial guarantee may be in the form of a letter of credit, a security bond, or escrow deposit. The financial guarantee requires village council approval. No drawdowns from the financial guarantee will be allowed until all improvement elements have been completed, inspected and accepted by the village.

F. Filing Final Plat; Expiration: Unless a final plat is properly filed with the county clerk in accordance with this title, approval of such plat shall expire three (3) years after the date of approval. (Ord. 2002-03, 2-2002)

G. Digital File: After final plat approval and prior to the filing of the subdivision plat, the developer shall submit a digital file of the plat in AutoCAD 2005 or later version to the village. (Ord. 2006-04, 1-19-2006)

10-3C-5: WATER RIGHTS:

A. Transfer Required: The developer shall agree that if the village approves the subdivision, in consideration of that approval, the applicant will make water rights available to the village in amounts as specified in this section.

B. Time Of Transfer: The developer shall transfer these water rights to the village after final plat approval and before recording the plat as follows:

1. By transferring ownership and use of the water rights to the village in accordance with the rules and procedures of the New Mexico state engineer; or such other method of transfer or comparable compensation as approved in the final plat approval by the village council.

2. By paying compensation to the village sufficient to allow the village to obtain the necessary and correct water rights. This compensation shall cover the cost of the current market price of water rights and all professional service fees to accomplish a transfer. This option is subject to the village's willingness to undertake this effort.

C. Amount Of Water Transferred Or Compensated:

1. Residential Subdivisions: The amount of water rights required for any residential subdivision shall not be less than 0.333 acre-feet per year of consumptive use for each dwelling unit in the subdivision.

2. Commercial Subdivisions: Where a subdivision involves land to be used for commercial purposes, the village shall require that the developer provide a report that estimates the total water use for commercial purposes under conditions of full development. The developer shall be required to provide the water rights, or fee in lieu of, prior to the filing of the subdivision plat. Each lot will be reevaluated at the time of building permit application.

D. Engineering Fee: Any and all engineering or other professional fees incurred by the village under this section to achieve water right transfers or compensation shall be paid by the developer at the time such fees are incurred.

E. Private Wells: Individual and/or clustered domestic wells will require council approval within any proposed subdivision within the village. (Ord. 2002-03, 2-2002)

ARTICLE D. SUMMARY SUBDIVISIONS

SECTION:

10-3D-1: Plat Required

10-3D-2: Requirements For Summary Approval

10-3D-3: Ineligibility For Summary Approval

10-3D-4: Exemption From Platting Process

10-3D-1: PLAT REQUIRED:

All summary subdivisions shall require a plat to be filed with the county clerk. (Ord. 2002-03, 2-2002)

10-3D-2: REQUIREMENTS FOR SUMMARY APPROVAL:

A. After staff review and recommendation, the planning and zoning chairperson may summarily approve and sign, along with the village clerk, the plat(s) or replat(s) of subdivision(s) which comply with all zoning and subdivision ordinances and regulations and where water, wastewater, and street improvements are in place; if:

1. The subdivision contains no more than two (2) parcels of land; or
2. In a resubdivision, the combination or recombination of portions of previously platted lots does not increase the total number of lots.

B. The planning and zoning chairperson or designee shall summarily approve the subdivision of land if:

1. The subdivision does not create lots greater than one (1) acre.
2. The total land area of the subdivision does not exceed five (5) acres.
3. Each new subdivision lot satisfies minimum state requirements for water and wastewater standards.
4. The subdivision is located more than one thousand two hundred (1,200) linear feet from a municipal water or wastewater main or is served by public water and wastewater infrastructure.
5. Summary subdivisions cannot be combined with adjacent summary subdivisions. (Ord. 2002-03, 2-2002; amd. Ord. 2023-07, 7-11-2023)

10-3D-3: INELIGIBILITY FOR SUMMARY APPROVAL:

A. A plat that proposes the dedication or vacation of easements must go to the planning and zoning commission for approval.

B. A plat that proposes the dedication or vacations of a right of way is not eligible for this summary procedure. (Ord. 2002-03, 2-2002)

10-3D-4: EXEMPTION FROM PLATTING PROCESS:

A plat shall not be required when an application for the combination of lots is filed with the planning and zoning commission for the purpose of combining contiguous lots when the total number of platted lots will be reduced and no perimeter lot line will be relocated. This exception may be approved administratively.

A. The subdivision of land that satisfies the requirements of Section 10-3D-2-2 may be approved administratively. (Ord. 2002-04, 4-18-2002; amd. Ord. 2003-11, 11-20-2003; Ord. 2023-07, 7-11-2023)

CHAPTER 4

DESIGN STANDARDS

SECTION:

10-4-1: Purpose; Compliance Required; Variances

10-4-2: Developer's Responsibility

10-4-3: Preconstruction Meeting

10-4-4: Streets And Roads

10-4-5: Water Service

10-4-6: Wastewater Service

10-4-7: Drainage System (Rep. by Ord. 2013-07, 8-13-2013)

10-4-8: Traffic Impact Analysis

10-4-9: Digital Data And As Built Drawings

10-4-1: PURPOSE; COMPLIANCE REQUIRED; VARIANCES:

These design standards are intended to be a guide to the subdivider. Except where modified by the council, each subdivision and the plat thereof shall be in conformity with these design standards. A variance from these design standards may be granted by the council in accordance with section 10-5-4 of this title. (Ord. 2002-03, 2-2002)

10-4-2: DEVELOPER'S RESPONSIBILITY:

It is the sole responsibility of the developer to ensure that all construction improvements are performed in compliance with federal, state, and local safety and health laws. (Ord. 2002-03, 2-2002)

10-4-3: PRECONSTRUCTION MEETING:

Before construction begins, the developer's engineer shall hold a preconstruction meeting with the contractor(s) and the village. The developer will provide the village with a copy of the construction schedule for the various phases of work to be done. (Ord. 2013-07, 8-13-2013)

10-4-4: STREETS AND ROADS:

A. General Design Requirements:

1. Streets and alleys shall be arranged to not cause hardship to the owners of adjoining property and offset streets shall be avoided. All lots shall have reasonable access from a dedicated street.

2. Street layout shall be made according to sound land planning practice for the type of development proposed and shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation of appropriate projections of arterial and collector streets in surrounding areas and provide reasonable means of ingress and egress for surrounding tracts.

3. Where land is subdivided into large tracts and where the potential for future subdivision exists, such tracts shall be arranged to allow for future streets and a logical further resubdivision pattern. (Ord. 2002-03, 2-2002)

4. All streets shall be constructed of a minimum of double penetration of chip sealed road construction. All streets and roads shall be designed on projected needs for a twenty (20) year period. (Ord. 2006-11, 10-19-2006)

10-4-5: WATER SERVICE:

A. Connection To Village System Required; Pressure Requirements: The subdivider shall connect with a water main of the Angel Fire municipal water system and provide a water system with service lines to each lot in the subdivision. All lines in the system shall be designed to carry adequate flows for firefighting as specified by the New Mexico state fire marshal: twenty (20) psi and one thousand (1,000) gallons per minute. In no case shall there be a pressure zone exceeding one hundred fifty (150) psi.

B. Specifications:

1. The minimum line size for looped lines shall be six inches (6"); for nonlooped lines, the minimum line size shall be eight inches (8"). All nonlooped lines shall have a five and one-fourth inch (5 1/4") fitting with a bleeder valve at the end. All water lines shall be buried a minimum of six feet (6') below the finished grade.

2. All service lines shall be of approved materials and sizes.

3. All pipe and pipe fittings, accessories, etc., shall be AWWA standards. (Ord. 2002-03, 2-2002)

C. Water Hookup Agreement: (Rep. by Ord. 2013-07, 8-13-2013)

D. Extensions: Extensions from the existing system to the subdivision shall have additional capacity to serve adjacent properties and for future expansion, as recommended by the village engineer.

E. Hydrants: Fire hydrants shall be located within public rights of way, spaced a maximum distance of four hundred feet (400') apart and shall conform to the village fire code ¹

F. Inspections: Prior to backfilling any water line ditch section, the village shall inspect all pipe, valves, connections and grades, and approve backfill material and procedures. (Ord. 2002-03, 2-2002)

Notes

¹ 1. See title 8, chapter 2 of this code.

10-4-6: WASTEWATER SERVICE:

A. Connection To Village System: The subdivider shall connect with the wastewater collection system of the village and provide an adequate collection system to serve every lot in the subdivision.

B. Specifications:

1. All wastewater lines shall be designed to carry the anticipated flows. The minimum size shall be eight inches (8"), and the maximum flow velocity shall be two feet (2') per second. Manholes shall have a maximum separation of four hundred feet (400').

2. All service lines shall be of approved materials and sizes. (Ord. 2002-03, 2-2002)

C. Wastewater Hookup Agreement: (Rep. by Ord. 2013-07, 8-13-2013)

D. Extensions: Extensions from the existing system to the subdivision and mains through the subdivision shall have additional capacity to serve adjacent properties and for future expansion, as recommended by the village engineer.

E. Inspections: Prior to backfilling any wastewater line ditch section, the village shall inspect pipe, manholes, connections and grades, and approve backfill material and procedures. (Ord. 2002-03, 2-2002)

10-4-7: DRAINAGE SYSTEM:

(Rep. by Ord. 2013-07, 8-13-2013)

10-4-8: TRAFFIC IMPACT ANALYSIS:

A. A traffic impact analysis (TIA) may be required by the village to assess the effects a particular subdivision will have on

the surrounding transportation network, to determine what provisions are needed for safe and efficient site access and traffic flow, and to establish mitigation requirements where off site impacts require improvements. Off site improvements shall not be required to be constructed by the subdivider in order to address existing transportation system deficiencies.

B. If required, the TIA shall address safety issues related to subdivision ingress/egress and the impact of site generated traffic upon an intersection created at the primary point of access from the subdivision to a publicly maintained road, to be evaluated at projected build-out and occupancy of the subdivision. (Ord. 2002-03, 2-2002)

10-4-9: DIGITAL DATA AND AS BUILT DRAWINGS:

A. Digital File: Prior to the filing of a subdivision plat, a digital copy of the plat shall be submitted to the planning division. Acceptable format shall be AutoCAD 2004 or subsequent versions.

B. As Built Drawings: Prior to the acceptance of new roads and utilities for maintenance, digital copies of the "as built drawings" shall be submitted to the planning division. Acceptable format shall be AutoCAD 2003 or subsequent versions. (Ord. 2006-04, 1-19-2006)

CHAPTER 5

ADMINISTRATION AND ENFORCEMENT

SECTION:

10-5-1: Administration Of Regulations Generally

10-5-2: Fees

10-5-3: Amendments

10-5-4: Variations

10-5-5: Appeals

10-5-1: ADMINISTRATION OF REGULATIONS GENERALLY:

The planning and zoning commission may adopt, amend and publish rules and instructions for the administration of this title to the end that the public be informed and that approval of plats be expedited. (Ord. 2002-03, 2-2002; amd. 2003 Code)

10-5-2: FEES:

The fees for application for subdivision approval shall be as fixed from time to time by the village council through resolution with due public notice. The fees shall be paid by the developer to the village at the time of filing the application, and these application fees are nonrefundable. Said application fees are distinct and separate from the engineering review fees described in section 10-3B-2 of this title. (Ord. 2002-03, 2-2002)

10-5-3: AMENDMENTS:

For the purpose of protecting the public health, safety, and general welfare, the commission or council may from time to time propose amendments to this title to be considered by the council at a public hearing following public notice of the time and place of the public hearing. Such notice shall be published once at least fifteen (15) days prior to the date of the public hearing. (Ord. 2002-03, 2-2002)

10-5-4: VARIATIONS:

Whenever a tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of this title would result in difficulties and substantial hardship or injustices, the council may vary or modify such requirements so that the developer is allowed to develop his property in a reasonable manner, but so, at the same time, the public welfare and interest of the village are protected and the general intent and spirit of this title are preserved. Written requests for variations and exceptions must be submitted with the preliminary plat application. (Ord. 2002-03, 2-2002)

10-5-5: APPEALS:

Any decision by the planning and zoning commission may be appealed to the village council within fifteen (15) days of the decision. (Ord. 2002-03, 2-2002)