

## ARTICLE 4. MIDDLE RIO GRANDE CONSERVATION DISTRICT TRACTS

SECTION 1.	Purpose
SECTION 2.	Definitions
SECTION 3.	Zone Review and Building Permits for MRGCD Tracts
SECTION 4.	No Presumption
SECTION 5.	Limited Application
SECTION 6.	Severability

### § 9.4.1 PURPOSE

The purpose of this Article is to establish a procedure to administer zoning review, building permits and other administrative procedures relating to qualifying Middle Rio Grande Conservation District Tracts. Middle Rio Grande Conservation District Tracts were created for the purpose of administering water rights and delivering water to certain tracts of land within the Middle Rio Grande Conservation District (“**MRGCD**”). In most cases, the MRGCD Tracts were not created by subdivision plat after governmental approval; however, the MRGCD Tract descriptions have, in many cases, been used for property conveyances. As a matter of public policy, the Village has determined that MRGCD Tracts should be recognized legal parcels for certain purposes, as set out herein.

### § 9.4.2 DEFINITIONS

(A) **MIDDLE RIO GRANDE CONSERVATION DISTRICT** means the district formed in the State of New Mexico for administration of rivers and waters and conservation and will be abbreviated in this Article by the phrase “MRGCD.”

(B) **MRGCD.** Tract(s) as used herein shall mean those tracts shown on the MRGCD maps which Tracts were not either created by or subsequently platted in a Subdivision Plat and which were designated by MRGCD prior to 1967.

(C) **SUBDIVISION PLAT** shall mean a Plat prepared by a licensed surveyor or engineer creating or incorporating lots or parcels, which Plat has been approved through the administrative subdivision and platting process under the platting jurisdiction of the Village, Bernalillo County, or the City of Albuquerque, and further, has been recorded in the real property records of Bernalillo County, or the City of Albuquerque, and further, has been recorded in the real property records of Bernalillo County after receipt of all necessary approvals.

(D) **LOT OR LOT OF RECORD** as used herein shall mean a lot or parcel created by a Subdivision Plat.

(E) **SUBDIVISION CODE** as used herein shall mean the currently adopted Subdivision provisions as set out in Chapter 9, Article 1 of the 2013 Codified Ordinances of the Village of Los Ranchos.

(F) **ZONING CODE** shall mean the Zoning provisions as set out in Chapter 9, Article 2 of the 2013 Codified Ordinances of the Village of Los Ranchos or subsequent Codification of the Ordinances.

(G) **PLAT** means a map created by a licensed engineer or surveyor, prepared in accordance with the survey requirements of the State of New Mexico, showing thereon one or



more separate parcels of land, identified by metes and bounds descriptions and any identifiable monuments and other requirements of the governmental authority having jurisdiction over platting and subdividing real property.

**(H) CLASS 1 MRGCD TRACT** means an MRGCD Tract designated as a separate parcel on an official MRGCD map and which is 0.25 acres or more in net area.

**(I) CLASS 2 MRGCD TRACT** means an MRGCD Tract designated as a separate parcel on an official MRGCD map and which is less than 0.25 net acres.

**(J) EXISTING SINGLE FAMILY RESIDENCE** shall mean a house or structure occupied or historically used as a single-family residence which house was constructed on an MRGCD Tract in accordance with ordinances and regulations in effect at the time the structure was completed.

**(K) APPLICABLE ZONE** shall mean the zoning designation for an MRGCD Tract under the Zoning Code.

**(L) BUILDING PERMIT** shall mean a permit issued by the Village or its designee for construction on an MRGCD Tract pursuant to the applicable ordinances in effect at the time a zone review and a Building Permit are applied for. Bernalillo County is currently the designee for the Village for the purpose of issuing Building Permits.

**(M) NET ACRES** as used herein shall mean the acreage of the MRGCD Tract determined in the same manner minimum lot sizes are calculated under the Subdivision Code.

**(N) MRGCD TRACTS NOT LOTS.** For purposes of the Ordinances of the Village, an MRGCD Tract shall not be deemed to be a Lot or Lot of Record.

### **§ 9.4.3 ZONE REVIEW AND BUILDING PERMITS FOR MRGCD TRACTS**

**(A)** If an MRGCD Tract is not improved with an Existing Single-Family Residence but meets the size requirements of the Applicable Zone, prior to issuance of a Building Permit for any construction, the MRGCD Tract shall be platted pursuant to a Subdivision Plat. Regardless of the size of the MRGCD Tract, if the proposed plat does not combine two or more MRGCD Tracts, the platting shall be deemed a “Minor Subdivision.”

**(B)** If an MRGCD Tract is not improved with an Existing Single-Family Residence and does not meet the size requirements of the Applicable Zone, prior to issuance of a Building Permit for any construction, the MRGCD Tract shall be platted pursuant to a Subdivision Plat, in which case the landowner(s) shall also be required to obtain a variance pursuant to the procedures set out in the Zoning Code in addition to compliance with the Subdivision Code. A determination as to whether or not the platting must be processed as a Major Subdivision or a Minor Subdivision shall be determined in accordance with the Subdivision Code.

**(C)** For all Class 1 MRGCD Tracts and Class 2 MRGCD Tracts which are improved with an existing Single-Family Residence, such Existing Single-Family Residence shall be deemed an existing permitted use which use may continue but which use cannot be expanded as to size or intensity, except in accordance with the provisions of this Article.

**(D)** The Village or its designee may issue Building Permits for construction on a single Class 1 MRGCD Tract which is improved with an Existing Single-Family Residence even though such Tract does not meet the minimum size requirements under the Applicable Zone without requirement that the Class 1 MRGCD Tract be platted in accordance with the Subdivision Code and without a Variance being issued pursuant to the Zoning Code. The Village shall have the authority (but not the obligation) to allow the building footprint for the Existing



Single-Family Residence or ancillary buildings to be expanded, provided such expanded size is otherwise in compliance with all required setbacks, floor area ratio, and other regulations of the Village Ordinances. Multiple MRGCD Tracts under one ownership and improved with a Single-Family Residence must go through the Subdivision process, but do not require a Variance for minimum lot area.

**(E)** The Village or its designee may issue Building Permits for construction on a class 2 MRGCD Tract which is improved with an Existing Single-Family Residence without the requirement of a Subdivision Plat, provided the Existing Single-Family Residence is not expanded as to its footprint size. If the Tract does not meet the minimum size requirements under the applicable zone and the size of the residence's footprint is going to be expanded, a Subdivision Plat will not be required, but a variance under the Zoning Code will be required and all other requirements including setbacks and floor area ratio must be complied with.

#### **§ 9.4.4 NO PRESUMPTION**

There is no presumption that an owner is entitled to construct a Single-Family Residence on any property based solely upon the fact that it is a separate MRGCD Tract.

#### **§ 9.4.5 LIMITED APPLICATION**

Except as specifically set out herein, MRGCD Tracts shall be subject to all ordinances and regulations which would otherwise be applicable to lands or parcels of lands for which there is no Subdivision Plat. MRGCD Tracts shall not be deemed Lots or Lots of Record for any purpose.

#### **§ 9.4.6 SEVERABILITY**

If any section, subsection, paragraph, sentence, clause, phrase, or part hereof is for any reason declared unconstitutional or invalid, the validity of the remaining portions hereof shall not be affected since it is the expressed intent of the Board of Trustees to pass each section, subsection, paragraph, clause, phrase and every part thereof separately and independently of every other part.

#### **Ordinance and State Law References regarding Chapter 9, Article 4:**

Ordinance #232, April 11, 2012

